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CHAPTER 1. STATE BOARD OF EQUALIZATION—PROPERTY TAX (1–1099)

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Rule 1. GENERAL APPLICATION.

Reference: Sections 110, 110.1, 401, Revenue and Taxation Code; *Carlson* v. *Assessment Appeals Board No. 1* (1985) 167 Cal.App.3d 1004; *Dennis* v. *County of Santa Clara* (1989) 215 Cal.App.3d 1019.

The rules in this subchapter govern assessors when assessing, county boards of equalization and assessment appeals boards when equalizing, and the State Board of Equalization, including all divisions of the property tax department.

History: Adopted June 21, 1967, effective July 23, 1967.
Amended July 27, 1982, effective December 30, 1982.

Rule 2. THE VALUE CONCEPT.

Reference: Article 2, Chapter 3, Part 2, Division 1, Revenue and Taxation Code. Sections 110, 110.1, 401, Revenue and Taxation Code.

(a) In addition to the meaning ascribed to them in the Revenue and Taxation Code, the words ''full value, ''full cash value,'' ''cash value,'' ''actual value,'' and ''fair market value'' mean the price at which a property, if exposed for sale in the open market with a reasonable time for the seller to find a purchaser, would transfer for cash or its equivalent under prevailing market conditions between parties who have knowledge of the uses to which the property may be put, both seeking to maximize their gains and neither being in a position to take advantage of the exigencies of the other.

When applied to real property, the words ''full value'', ''full cash value'', ''cash value'', ''actual value'' and ''fair market value'' mean the prices at which the unencumbered or unrestricted fee simple interest in the real property (subject to any legally enforceable governmental restrictions) would transfer for cash or its equivalent under the conditions set forth in the preceding sentence.

(b) When valuing real property (as described in paragraph (a)) as the result of a change in ownership (as defined in Revenue and Taxation Code, Section 60, et seq.) for consideration, it shall be rebuttably presumed that the consideration valued in money, whether paid in money or otherwise, is the full cash value of the property. The presumption shall shift the burden of proving value by a preponderance of the evidence to the party seeking to overcome the presumption. The presumption may be rebutted by evidence that the full cash value of the property is significantly more or less than the total cash equivalent of the consideration paid for the property. A significant deviation means a deviation of more than 5% of the total consideration.

(c) The presumption provided in this section shall not apply to:

(1) The transfer of any taxable possessory interest.

(2) The transfer of real property when the consideration is in whole, or in part, in the form of ownership interests in a legal entity (e.g., shares of stock) or the change in ownership occurs as the result of the acquisition of ownership interests in a legal entity.

Rule 2. (Contd.)

(3) The transfer of real property when the information prescribed in the change in ownership statement is not timely provided.

(d) If a single transaction results in a change in ownership of more than one parcel of real property, the purchase price shall be allocated among those parcels and other assets, if any, transferred based on the relative fair market value of each.

History: Adopted June 21, 1967, effective July 23, 1967.
Amended December 17, 1975, effective January 25, 1976.
Amended October 9, 1984, effective September 20, 1985.
Amended July 24, 1991, effective September 25, 1991.

Rule 3. VALUE APPROACHES.

Reference: Article 2, Chapter 3, Part 2, Division 1, Revenue and Taxation Code.
Sections 110, 401, Revenue and Taxation Code.

In estimating value as defined in section 2, the assessor shall consider one or more of the following, as may be appropriate for the property being appraised:

(a) The price or prices at which the property and comparable properties have recently sold (the comparative sales approach).

(b) The prices at which fractional interests in the property or comparable properties have recently sold, and the extent to which such prices would have been increased had there been no prior claims on the assets (the stock and debt approach).

(c) The cost of replacing reproducible property with new property of similar utility, or of reproducing the property at its present site and at present price levels, less the extent to which the value has been reduced by depreciation, including both physical deterioration and obsolescence (the replacement or reproduction cost approach).

(d) If the income from the property is regulated by law and the regulatory agency uses historical cost or historical cost less depreciation as a rate base, the amount invested in the property or the amount invested less depreciation computed by the method employed by the regulatory agency (the historical cost approach).

(e) The amount that investors would be willing to pay for the right to receive the income that the property would be expected to yield, with the risks attendant upon its receipt (the income approach).

History: Adopted June 21, 1967, effective July 23, 1967.

Rule 4. THE COMPARATIVE SALES APPROACH TO VALUE.

Reference: Sections 110, 110.1, 110.5, 401, Revenue and Taxation Code.
Article XIII A, Sections 1, 2, California Constitution.

When reliable market data are available with respect to a given real property, the preferred method of valuation is by reference to sales prices. In using sales prices of the appraisal subject or of comparable properties to value a property, the assessor shall:

(a) Convert a noncash sale price to its cash equivalent by estimating the value in cash of any tangible or intangible property other than cash which the seller accepted in full or partial payment for the subject property and adding it to the cash portion of the sale price and by deducting from the nominal sale price any amount which the seller paid in lieu of interest to a lender who supplied the grantee with part or all of the purchase money.

(b) When appraising an unencumbered-fee interest, (1) convert the sale price of a property encumbered with a debt to which the property remained subject to its unencumbered-fee price equivalent by adding to the sale price of the seller's equity the price for which it is estimated that such debt could have been sold under value-indicative conditions at the time the sale price was negotiated and (2) convert the sale price of a property encumbered with a lease to which the property remained subject to its unencumbered-fee price equivalent by deducting from the sale price of the seller's equity the amount by which it is estimated that the lease enhanced that price or adding to the price of the seller's equity the amount by which it is estimated that the lease depressed that price.

(c) Convert a sale to the valuation date of the subject property by adjusting it for any change in price level of this type of property that has occurred between the time the sale price was negotiated and the valuation date of the subject property.

(d) Make such allowances as he deems appropriate for differences between a comparable property at the time of sale and the subject property on the valuation date, in physical attributes of the properties, location of the properties, legally enforceable restrictions on the properties' use, and the income and amenities which the properties are expected to produce. When the appraisal subject is land and the comparable property is land of smaller dimensions, and it is assumed that the subject property would be divided into comparable smaller parcels by a purchaser, the assessor shall allow for the cost of subdivision, for the area required for streets and alleys, for selling expenses, for normal profit, and for interest charges during the period over which it is anticipated that the smaller properties will be marketed.

History: Adopted June 21, 1967, effective July 23, 1967.
Amended July 27, 1982, effective December 30, 1982.

Rule 6. THE REPRODUCTION AND REPLACEMENT COST APPROACHES TO VALUE.

Reference: Sections 110, 401, Revenue and Taxation Code.

(a) The reproduction or replacement cost approach to value is used in conjunction with other value approaches and is preferred when neither reliable sales data (including sales of fractional interests) nor reliable income data are available and when the income from the property is not so regulated as to make such cost irrelevant. It is particularly appropriate for construction work in progress and for other property that has experienced relatively little physical deterioration, is not misplaced, is neither over- nor underimproved, and is not affected by other forms of depreciation or obsolescence.

(b) The reproduction cost of a reproducible property may be estimated either by (1) adjusting the property's original cost for price level changes and for abnormalities, if any, or (2) applying current prices to the property's labor and material components, with appropriate additions for entrepreneurial services, interest on borrowed or owner-supplied funds, and other costs typically incurred in bringing the property to a finished state (or to a lesser state if unfinished on the lien date). Estimates made under (2) above may be made by using square-foot, cubic-foot, or other unit costs; a summation of the in-place costs of all components; a quantity survey of all material, labor, and other cost elements; or a combination of these methods.

(c) The original cost of reproducible property shall be adjusted, in the aggregate or by groups, for price level changes since original construction by multiplying the cost incurred in a given year by an appropriate price index factor. When detailed investment records are unavailable for earlier years or when only a small percentage of the total investment is involved, the investments in such years may be lumped and factored to present price levels by means of an index number that represents the assessor's best judgment of the weighted average price change. If the property was not new when acquired by its present owner and its original cost is unknown, its acquisition cost may be substituted for original cost in the foregoing calculations.

(d) The replacement cost of a reproducible property may be estimated as indicated in (b)(2) of this section by applying current prices to the labor and material components of a substitute property capable of yielding the same services and amenities, with appropriate additions as specified in subsection (b)(2).

(e) Reproduction or replacement cost shall be reduced by the amount that such cost is estimated to exceed the current value of the reproducible property by reason of physical deterioration, misplacement, over- or underimprovement, and other forms of depreciation or obsolescence. The percentage that the remainder represents of the reproduction or replacement cost is the property's percent good.

(f) When the allowance made pursuant to paragraph (e) exceeds the amount included in the depreciation tables used by the assessor, the reasons therefor shall be noted in the appraisal record for the property and the amount thereof shall be ascertainable from the record.

Rule 6. (Contd.)

History: Adopted September 1, 1967, effective October 7, 1967.
Amended February 16, 1970, effective March 26, 1970.
Amended February 18, 1971, effective March 24, 1971.
Amended February 16, 1977, effective February 18, 1977.
Amended December 19, 1997, effective January 18, 1998.

Rule 8. THE INCOME APPROACH TO VALUE.

Reference: Sections 110, 401, Revenue and Taxation Code.

(a) The income approach to value is used in conjunction with other approaches when the property under appraisal is typically purchased in anticipation of a money income and either has an established income stream or can be attributed a real or hypothetical income stream by comparison with other properties. It is the preferred approach for the appraisal of land when reliable sales data for comparable properties are not available. It is the preferred approach for the appraisal of improved real properties and personal properties when reliable sales data are not available and the cost approaches are unreliable because the reproducible property has suffered considerable physical depreciation, functional obsolescence or economic obsolescence, is a substantial over- or underimprovement, is misplaced, or is subject to legal restrictions on income that are unrelated to cost.

(b) Using the income approach, an appraiser values an income property by computing the present worth of a future income stream. This present worth depends upon the size, shape, and duration of the estimated stream and upon the capitalization rate at which future income is discounted to its present worth. Ideally, the income stream is divided into annual segments and the present worth of the total income stream is the algebraic sum (negative items subtracted from positive items) of the present worths of the several segments. In practical application, the stream is usually either

(1) divided into longer segments, such as the estimated economic life of the improvements and all time thereafter or the estimated economic life of the improvements and the year in which the improvements are scrapped and the land is sold, or

(2) divided horizontally by projecting a perpetual income for land and an income for the economic life of the improvements, or

(3) projected as a level perpetual flow.

(c) The amount to be capitalized is the net return which a reasonably well informed owner and reasonably well informed buyers may anticipate on the valuation date that the taxable property existing on that date will yield under prudent management and subject to such legally enforceable restrictions as such persons may foresee as of that date. Net return, in this context, is the difference between gross return and gross outgo. Gross return means any money or money's worth which the property will

Rule 8. (Contd.)

yield over and above vacancy and collection losses, including ordinary income, return of capital, and the total proceeds from sales of all or part of the property. Gross outgo means any outlay of money or money's worth, including current expenses and capital expenditures (or annual allowances therefor) required to develop and maintain the estimated income. Gross outgo does not include amortization, depreciation, or depletion charges, debt retirement, interest on funds invested in the property, or rents and royalties payable by the assessee for use of the property. Property taxes, corporation net income taxes, and corporation franchise taxes measured by net income are also excluded from gross outgo.

(d) In valuing property encumbered by a lease, the net income to be capitalized is the amount the property would yield were it not so encumbered, whether this amount exceeds or falls short of the contract rent and whether the lessor or the lessee has agreed to pay the property tax.

(e) Recently derived income and recently negotiated rents or royalties (plus any taxes paid on the property by the lessee) of the subject property and comparable properties should be used in estimating the future income if, in the opinion of the appraiser, they are reasonably indicative of the income the property will produce in its highest and best use under prudent management. Income derived from rental of properties is preferred to income derived from their operation since income derived from operation is the more likely to be influenced by managerial skills and may arise in part from nontaxable property or other sources. When income from operating a property is used, sufficient income shall be excluded to provide a return on working capital and other nontaxable operating assets and to compensate unpaid or underpaid management.

(f) When the appraised value is to be used to arrive at an assessed value, the capitalization rate is to include a property tax component, where applicable, equal to the estimated future tax rate for the area times the assessment ratio.

(g) The capitalization rate may be developed by either of two means:

(1) By comparing the net incomes that could reasonably have been anticipated from recently sold comparable properties with their sales prices, adjusted, if necessary, to cash equivalents (the market-derived rate). This method of deriving a capitalization rate is preferred when the required sales prices and incomes are available. When the comparable properties have similar capital gains prospects, the derived rate already includes a capital gain (or loss) allowance and the income to be capitalized should not include such a gain (or loss) at the terminus of the income estimate.

(2) By deriving a weighted average of the capitalization rates for debt and for equity capital appropriate to the California money markets (the band-of-investment method) and adding increments for expenses that are excluded from outgo because they are based on the value that is being sought or the income that is being capitalized. The appraiser shall weight the rates for debt and equity capital by the respective amounts of such capital he deems most likely to be employed by prospective purchasers.

Rule 8. (Contd.)

(h) Income may be capitalized by the use of gross income, gross rent, or gross production multipliers derived by comparing sales prices of closely comparable properties (adjusted, if necessary, to cash equivalents) with their gross incomes, gross rents, or gross production.

(i) The provisions of this rule are not applicable to lands defined as open-space lands by Chapter 1711, Statutes of 1967, nor are they applicable in all respects to possessory interests.

History: Adopted December 12, 1967, effective January 18, 1968.
Amended December 15, 1976, effective January 21, 1977.
Amended September 27, 1977, effective November 25, 1977.
Amended July 27, 1982, effective December 30, 1982.

Rule 10. TRADE LEVEL FOR TANGIBLE PERSONAL PROPERTY.

Reference: Chapter 147, Statutes of 1966, First Extraordinary Session.
Sections 110, 401, Revenue and Taxation Code.

(a) In appraising tangible personal property, the assessor shall give recognition to the trade level at which the property is situated and to the principle that property normally increases in value as it progresses through production and distribution channels. Such property normally attains its maximum value as it reaches the consumer level. Accordingly, tangible personal property shall be valued by procedures that are consistent with the general policies set forth herein.

(b) Except as provided by the following subdivisions, tangible personal property held by a consumer shall be valued at the amount of cash or its equivalent for which the property would transfer to a consumer of like property at the same trade level if exposed for sale on the open market. This value shall be estimated in accordance with regulations 4, 6, and 8. If a cost approach is employed, the cost shall include the full economic cost of placing the property in service. Full economic cost (i.e., replacement or reproduction cost), includes costs typically incurred in bringing the property to a finished state, including labor and materials, freight or shipping cost, installation costs, sales or use taxes, and additions for market supported entrepreneurial services (with appropriate allowances for trade, quantity, or cash discounts). Full economic cost does not include extended service plans or extended warranties, supplies, or other assets or business services that may have been included in a purchase contract.

(c) Tangible personal property leased, rented, or loaned for a period of six months or less, having a tax situs at the place where the lessor normally keeps the property as provided in regulation 204, shall be valued at the amount of cash or its equivalent for which it would transfer to other lessors or retailers of like property. The value may be estimated by reference to the price at which the lessor could be expected to sell the property at fair market value to other lessors or retailers of like property. If

Rule 10. (Contd.)

that price is unknown, then the value may be estimated by reference to one or more of the following indicators of value: (1) the lessor's full economic cost of the property with a reasonable allowance for depreciation; (2) the cost indicated in subdivision (e) if the lessor is also the manufacturer; or (3) in accordance with subdivision (b).

(d) Tangible personal property leased, rented, or loaned for an extended but unspecified period or leased for a term of more than six months, having tax situs at the lessee's situs as provided in regulation 204, shall be valued by estimating the cash price or its equivalent for which the property could be sold at fair market value to an outside customer operating at the same level of trade as the lessee. If that price is unknown, then the value may be estimated by reference to one or more of the following indicators of value: (1) the lessee's full economic cost of the property with a reasonable allowance for depreciation; or (2) in accordance with subdivision (b).

(e) Tangible personal property acquired from internal sources for self-consumption or use, shall be valued by estimating the cash price or its equivalent for which the property could be sold at fair market value to an outside customer using the property at the same trade level, (with appropriate allowances for trade, quantity, or cash discounts). If that price is unknown, then the value may be estimated by reference to one or more of the following indicators of value: (1) the cost of property in its condition and location on the lien date, had it been acquired at fair market value from an outside supplier (including labor, materials, overhead, interdivisional and/or intercompany profits, interest on borrowed or owner supplied funds, sales or use tax, installation, and other costs incurred in bringing the property to a finished state, with appropriate allowances for trade, quantity, or cash discounts, and depreciation), or (2) in accordance with subdivision (b). The cost of the property in its condition and location on the lien date, had it been acquired at fair market value from an outside supplier, does not include extended service plans or extended warranties, supplies, other assets or business services. The quantity discount allowed a manufacturer, when it is its own largest customer, should be at least as large as that allowed its largest wholesale or retail customer.

(f) Tangible personal property in the hands of a person engaged in the function of a manufacturer, wholesaler, or retailer and a consumer shall be valued by estimating the cash price or its equivalent for which the property could be sold at fair market value to an outside customer operating at the same level of trade. The property shall be valued based on how it is situated or used on the lien date pursuant to subdivisions (b), (c), (d), and (e).

History: Adopted June 21, 1967, effective July 23, 1967.
Amended February 18, 1970, effective March 26, 1970.
Amended January 6, 1971, effective February 18, 1971.
Amended April 19, 1971, effective May 22, 1971.
Amended February 23, 2000, effective May 25, 2000.

Rule 20. TAXABLE POSSESSORY INTERESTS.

Reference: Section 107, Revenue and Taxation Code

(a) POSSESSORY INTERESTS. ''Possessory interests'' are interests in real property that exist as a result of:

(1) A possession of real property that is independent, durable, and exclusive of rights held by others in the real property, and that provides a private benefit to the possessor, except when coupled with ownership of a fee simple or life estate in the real property in the same person; or

(2) A right to the possession of real property, or a claim to a right to the possession of real property, that is independent, durable, and exclusive of rights held by others in the real property, and that provides a private benefit to the possessor, except when coupled with ownership of a fee simple or life estate in the real property in the same person; or

(3) Taxable improvements on tax-exempt land.

(b) TAXABLE POSSESSORY INTERESTS. ''Taxable possessory interests'' are possessory interests in publicly-owned real property. Excluded from the meaning of ''taxable possessory interests'', however, are any possessory interests in real property located within an area to which the United States has exclusive jurisdiction concerning taxation. Such areas are commonly referred to as federal enclaves.

(c) DEFINITIONS. For purposes of this regulation:

(1) ''Real property'' is defined in section 104 of the Revenue and Taxation Code and includes public waters such as tidelands and navigable waters and waterways.

(2) ''Possession'' of real property means actual physical occupation. ''Possession'' requires more than incidental benefit from the public property, but requires actual physical occupation of the property pursuant to rights not granted to the general public; thus, the use of property such as hallways, common areas, and access roads at airports, stadiums, convention centers, or other public facilities by customers or employees of those who may lease other public property at the public facility of which they have exclusive use does not constitute ''possession'' of those hallways, common areas, or access roads by the lessee of the public property.

(3) A ''right,'' or a ''claim to a right,'' to the possession of real property means the right, or claim to a right, to actual physical occupation of real property. For purposes of this subdivision, a right, or a claim to a right, to the possession of real property may exist as a result of the possessor having or claiming to have: (i) a leasehold estate, an easement, a profit a prendre, or any other legal or equitable interest in real property of less than fee simple or life estate, regardless of how the interest may be identified in a deed, lease, or other document; or (ii) a use permit or agreement, such as a federal grazing permit, a permit to use a berth at a harbor, or a county use permit authorizing professional rafting outfitters to commercially operate on a river, that creates a legal or equitable interest in real property of less than fee simple or life estate.

Rule 20. (Contd.)

(4) ''Possessor'' means the party or parties who hold the possessory interest, and any successors or assigns to such party or parties.

(5) ''Independent'' means a possession, or a right or claim to possession, if the possession or operation of the real property is sufficiently autonomous to constitute more than a mere agency. To be ''sufficiently autonomous'' to constitute more than a mere agency, the possessor must have the right and ability to exercise significant authority and control over the management or operation of the real property, separate and apart from the policies, statutes, ordinances, rules, and regulations of the public owner of the real property. For example, the control of an airport runway or taxiway by the Federal Aviation Administration (FAA) or another government agency or its agent is so complete that it precludes the airlines from exercising sufficient authority and control over the management or operation of the runways or taxiway and does not constitute sufficient ''independence'' to support a possessory interest.

(6) ''Durable'' means for a determinable period with a reasonable certainty that the possession of the real property by the possessor, or the possessor's right or claim with respect to the possession of the real property, will continue for that period.

(7) ''Exclusive of rights held by others in the real property'' means the enjoyment of an exclusive use of real property, or a right or claim to the enjoyment of an exclusive use together with the ability to exclude from possession by means of legal process others who may interfere with that enjoyment.

(A) For purposes of this subdivision, ''exclusive uses'' include the following types of uses of real property, as well as rights and claims to such types of uses of real property:

(1) The sole possession, occupancy, or use of real property,

(2) The possession, occupancy, or use of real property by co-tenants or co-owners as to leaseholds, easements, profits a prendre, or any other legal or equitable interests in real property of less than fee simple or life estate, where the uses constitute but a single use jointly enjoyed.

(3) The concurrent use of real property, not amounting to co-tenancy or co-ownership under subdivision (A)(2) above, by a person who has a primary or prevailing right to use the real property and/or to have its designees use the real property. For example, a public marina leases boat slips with a lease provision that allows the marina to rent a leased boat slip to a short-term user if the primary lessee is away; subject to the primary lessee's right to exclude the short-term user on the primary lessee's return. Under these facts, the primary lessee has a primary and prevailing right to use the leased boat slip. For purposes of this subdivision, concurrent use of real property demonstrating a primary or prevailing right also includes alternating uses of the same real property by more than one party, such as the case when certain premises are used by a professional basketball team on certain days of each week while a professional hockey team uses the same premises on certain other days.

(4) Concurrent uses of real property, not amounting to co-tenancy or co-ownership under subdivision (A)(2) above, by persons making qualitatively different uses of the real property. For purposes of this subdivision, qualitatively different uses

Rule 20. (Contd.)

of real property include: (i) those by persons making different kinds of uses of the same real property, such as the case when one person is developing mineral resources on real property while others are concurrently enjoying recreational uses on the same real property; and (ii) those where different persons have the right to concurrently enter onto and take different things from the same real property.

(5) Concurrent uses of real property, not amounting to co-tenancy or co-ownership under subdivision (A)(2) above, by persons engaged in qualitatively similar uses that diminish the quantity or quality of the real property. For purposes of this subdivision, uses that diminish the quantity and/or quality of the real property include: (i) grazing cattle; (ii) mining: (iii) the extraction of oil or gas; and (iv) the extraction of geothermal energy.

(6) Concurrent uses of real property, not amounting to co-tenancy or co-ownership under subdivision (A)(2) above, by persons engaged in qualitatively similar uses that do not diminish the quantity or quality of the real property, provided that the number of concurrent use grants is restricted. For purposes of this subdivision: ''concurrent use grants'' includes grants, permits, deeds, agreements, and other documents providing rights to the concurrent use of real property; and the number of concurrent use grants is ''restricted'' when the number of concurrent use grants is restricted either by law or pursuant to the policies or management decisions of the public owner of the real property or other public agency.

Example 1: Commercial rafting outfitters have a county use permit to commercially operate on a river. While any private recreational user may raft on the river without limitation or regulation, only approximately 80 commercial rafting outfitters are presently allowed to operate under permit on the river. The commercial rafting outfitters' use of the river is exclusive for purposes of this regulation since the number of commercial use permits issued by the county to commercial rafting outfitters is restricted, regardless of whether or not the commercial rafting outfitters' use of the river diminishes its quantity or quality.

Example 2: X operates a shuttle van service, picking up passengers at their homes and other locations, and transporting them to the airport. When the shuttle van reaches the airport, it utilizes the public street which surrounds the airport to drop passengers off at the various terminals at the airport. The street around the airport is available to all licensed drivers, for commercial and noncommercial uses. Neither the traffic laws, nor the policies or management decisions of the public owner of the airport facility restrict the number of users of the public street. In addition, under the assumed facts of this hypothetical, X's use of the public street surrounding the airport does not diminish the quantity or quality of the real property.

Given that (i) the shuttle vans using the public street are making qualitatively similar uses of that real property; (ii) there are no facts indicating that the quality or quantity of the real property is being diminished; and (iii) the number of users of the real property is not restricted, X's right to use the public street surrounding the airport is not exclusive, and X does not have a possessory interest in the public street surrounding the airport.

Rule 20. (Contd.)

(B) A use of real property, or a right or claim to a use of real property, that does not contain one of the elements in subdivisions (A)(1) to (6) above, inclusive, shall be rebuttably presumed to be nonexclusive.

(C) In no event shall the presence of occasional trespassers or occasional interfering uses be sufficient in and of itself to make nonexclusive a use, or a right or claim to a use, that is otherwise exclusive for purposes of this regulation.

(8) ''Private benefit'' means that the possessor has the opportunity to make a profit, or to use or be provided an amenity, or to pursue a private purpose in conjunction with its use of the possessory interest. The use should be of some private or economic benefit to the possessor that is not shared by the general public. The fact that a possession of real property is not for a business or commercial purpose or that the possessor is a non-profit corporation does not preclude the possessor from being found to have received a ''private benefit'' from that possession.

History: Adopted January 22, 1998, effective May 6, 1998.

Rule 21. TAXABLE POSSESSORY INTERESTS-VALUATION.

Authority: Section 15606, Government Code.

Reference: Sections 107, 107.1, Revenue and Taxation Code.

(a) DEFINITIONS. For the purposes of this regulation:

(1) ''Real property'' is defined in rule 20(c)(1).

(2) ''Possession'' is defined in rule 20(c)(2).

(3) A ''right'' to the possession of real property includes a ''claim to a right'' to the possession of real property within the meaning of rule 20(c)(3).

(4) ''Possessor'' is defined in rule 20(c)(4).

(5) The ''term of possession'' of a taxable possessory interest means the term of possession for valuation purposes.

(6) The ''stated term of possession'' for a taxable possessory interest as of a specific date is the remaining period of possession as of that date as specified in the lease, agreement, deed, conveyance, permit, or other authorization or instrument that created, extended, or renewed the taxable possessory interest, including any option or options to renew or extend the specified period of possession if it is reasonable to assume that the option or options will be exercised.

(7) ''Contract rent'' means any compensation or payments, in cash or its equivalent, that are required to be paid or provided by a possessor under an authorization or instrument that creates a taxable possessory interest for the rights in real property provided by the taxable possessory interest.

Rule 21. (Contd.)

(8) ''Economic rent'' means the estimated amount that would be paid by the possessor, on the valuation date in cash or its equivalent, for the rights in real property provided by the taxable possessory interest if (i) the rights to possession were offered in an open and competitive market and (ii) the public owner's interest in the property were not exempt or immune from taxation. Economic rent does not include payments by the possessor to the public owner that are not paid as consideration for rights in real property, such as payments for the rental of personal property, for the provision of security services, and for advertising and promotional services.

(9) ''Creation'' means the creation of a taxable possessory interest. Creation includes (i) an initial grant or other conveyance of a taxable possessory interest; (ii) a subsequent grant or other conveyance of additional land or improvements to a preexisting taxable possessory interest; or (iii) a subsequent grant or other conveyance of additional valuable property rights or uses to a preexisting taxable possessory interest.

(10) ''Extension or renewal'' means the lengthening of the period of possession of a taxable possessory interest, such as by the exercise of an option to extend or to renew a lease or permit.

(b) RIGHTS TO BE VALUED. Except as provided in subsection (f) or specifically provided otherwise by law, the rights to be valued in a taxable possessory interest are all rights in real property held by the possessor.

(1) The fair market value of a taxable possessory interest is not diminished by any obligation of the possessor to pay rent or to retire debt secured by the taxable possessory interest. In other words, the fair market value of a taxable possessory interest is the fair market value of the fee simple absolute interest reduced only by the value of the property rights, if any, granted by the public owner to other persons and by the value of the property rights retained by the public owner (excluding the public owner's right to receive rent).

(2) Examples of rights in real property that may be granted or retained by the public owner include the following: (i) the right to take possession of the property upon the termination of the taxable possessory interest due to the occurrence of an event such as the expiration of the contract term, a breach of agreement, or the happening of a condition that terminates the possessor's right to possession; (ii) the right to put the property to a higher and better use or otherwise restrict the possessor's use of the property; (iii) the right to terminate possession upon notice; (iv) the right to approve a sublessee or assignee; (v) the right to approve a loan secured by the taxable possessory interest; and (vi) the right to allow other possessors to use the property.

(c) STANDARD OF VALUE. Assessors shall value a taxable possessory interest consistent with the requirements of subsections (a), (d), (e), and (f) of section 110 of the Revenue and Taxation Code. A taxable possessory interest subject to article XIII A of the California Constitution shall also be valued consistent with the requirements of section 110.1 of the Revenue and Taxation Code.

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(d) TERM OF POSSESSION FOR VALUATION PURPOSES.

(1) The term of possession for valuation purposes shall be the reasonably anticipated term of possession. The stated term of possession shall be deemed the reasonably anticipated term of possession unless it is demonstrated by clear and convincing evidence that the public owner and the private possessor have reached a mutual understanding or agreement, whether or not in writing, such that the reasonably anticipated term of possession is shorter or longer than the stated term of possession. If so demonstrated, the term of possession shall be the stated term of possession as modified by the terms of the mutual understanding or agreement.

(2) If there is no stated term of possession, the reasonably anticipated term of possession shall be demonstrated by the intent of the public owner and the private possessor, and by the intent of similarly situated parties, using criteria such as the following:

(A) The sale price of the subject taxable possessory interest and sales prices of comparable taxable possessory interests.

(B) The rules, policies, and customs of the public owner and of similarly situated public owners.

(C) The customs and practices of the private possessor and of similarly situated private possessors.

(D) The history of the relationship of the public owner and the private possessor and the histories of the relationships of similarly situated public owners and private possessors.

(E) The actions of the parties to the subject taxable possessory interest, including any amounts invested in improvements by the public owner or the private possessor.

(3) For the purposes of this regulation, a taxable possessory interest that runs from month to month, a taxable possessory interest without fixed term, or a taxable possessory interest of otherwise unspecified duration shall be deemed to be a taxable possessory interest with no stated term of possession.

(e) VALUATION OF POST-DE LUZ TAXABLE POSSESSORY INTERESTS. Except as specifically provided otherwise by law, and excluding a taxable possessory interest involving the production of gas, petroleum, or other hydrocarbons, the value of a taxable possessory interest created, extended, or renewed after December 24, 1955 (i.e., a ''Post-De Luz'' taxable possessory interest) may be estimated using one or more of the following methods, as appropriate for the taxable possessory interest being valued.

(1) COMPARATIVE SALES APPROACH TO VALUE. In the comparative sales approach, a taxable possessory interest is valued using the sale price of the subject taxable possessory interest or sales prices of comparable taxable possessory interests, provided such interests shall have sold under the conditions of fair market value described in subsection (a) of section 110. A taxable possessory interest may be valued by the direct comparison method or the indirect comparison method.

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(A) Direct Comparison Method. In the direct comparison method, the appraiser shall add the following to the sale price of the subject taxable possessory interest, or to the sale price of a comparable taxable possessory interest, to derive an indicator of the fair market value of the subject taxable possessory interest: (i) the present value on the sale date of any unpaid future contract rent for the term of possession; (ii) the fair market value on the sale date of any debt assumed by the buyer of the taxable possessory interest; and (iii) the present value on the sale date of any future costs that the buyer is contractually obligated to pay for the right of possession (e.g., the cost of site restoration at the end of the term of possession) less the present value on the sale date of any future benefits in addition to the right of possession or use that the buyer is contractually entitled to receive (e.g., the salvage value of, or reimbursement value for, improvements existing at the end of the term of possession). The unpaid future contract rent in (i) above shall be reduced by any expense necessary to maintain the income from the taxable possessory interest, including any element of ''gross outgo'' as defined in subsection (c) of rule 8.

When valuing a taxable possessory interest by comparison with the sales of other taxable possessory interests, the other taxable possessory interests shall be located sufficiently near the subject taxable possessory interest and shall be sufficiently alike in respect to character, size, situation, usability, zoning or other enforceable government restrictions on use (unless rebutted pursuant to subdivision (c) of section 402.1 of the Revenue and Taxation Code), and restrictions on possession or use contained in the legal authorization or instrument that created, extended or renewed the taxable possessory interest to make it clear that the comparable taxable possessory interests and the subject taxable possessory interest are comparable in value and that the cash equivalent price realized for the comparable taxable possessory interests may fairly be considered as shedding light on the value of the subject taxable possessory interest. The comparable sales also shall be sufficiently near in time to the valuation date of the subject taxable possessory interest. ''Near in time to the valuation date'' does not include any sale more than 90 days after the valuation date.

(B) Indirect Comparison Method. In the indirect comparison method, a taxable possessory interest is valued by (i) estimating the fair market value on the valuation date of the possessor's rights in real property in the taxable possessory interest as if owned in perpetuity (i.e., the value of the fee simple absolute interest in such rights) using sales of fee simple absolute interests in properties that are comparable to the subject property as prescribed in section 402.5 of the Revenue and Taxation Code and whose highest and best use corresponds to, or is comparable with, the permitted use of the subject taxable possessory interest; and (ii) reducing this value by both the present value of those property rights for the period subsequent to the term of possession (i.e., the value of the fee simple absolute interest in such rights at the end of the term of possession) and the present value of all other rights of fee simple absolute ownership, if any, that are not provided to the possessor.

(2) COST APPROACH TO VALUE. In the cost approach, a taxable possessory interest is valued by (i) adding the estimated replacement cost new less depreciation of improvements that meet the requirements of the possessor's permitted use to the estimated value of the taxable possessory interest in land; and

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(ii) reducing this amount by the estimated present value of the improvements that shall revert to or be retained by the public owner at the end of the term of possession.

(A) The replacement cost new less depreciation of the improvements may be estimated as prescribed in subsections (d) and (e) of rule 6. The estimated value of the taxable possessory interest in land may be estimated using the comparative sales approach (direct or indirect method) or the income approach (direct or indirect method), as prescribed in subsections (e)(1) and (e)(3).

(B) If a possessor's property use is limited to specified time periods (e.g., certain hours of the day or certain days of the week) or is shared with other possessors, the value determined by the cost approach shall be reasonably allocated to each possessor in a manner that reflects each possessor's proportionate value of the right to possession.

(3) INCOME APPROACH TO VALUE. In the income approach, a taxable possessory interest is valued by discounting the future net income that the interest in real property is capable of producing. A taxable possessory interest may be valued using the direct income method or the indirect income method.

(A) Direct Income Method. In the direct income method, a taxable possessory interest is valued by capitalizing the future net income that the taxable possessory interest is capable of producing under typical, prudent management for the term of possession.

(B) Indirect Income Method. In the indirect income method, a taxable possessory interest is valued by (i) estimating the fair market value of the possessor's rights on the valuation date as if owned in perpetuity (i.e., the value of the fee simple absolute interest in such rights) using the income approach to value as prescribed in rule 8; and (ii) reducing this value by the present value of the those rights for the period subsequent to the term of possession (i.e., the present value of the value of the fee simple interest in such rights at the end of the term of possession).

(C) Income to be Capitalized. The income to be capitalized in the valuation of a taxable possessory interest is the ''net return'' (as defined in subsection (c) of rule 8) attributable to the taxable possessory interest. The income to be capitalized may be based on either (i) the estimated economic rent for the subject taxable possessory interest or (ii) if the estimated economic rent is unreliable or unavailable, the estimated net operating income of a typical, prudent operator of the property subject to the taxable possessory interest. Rental income is preferable to operating income (i.e., income from operating a business) because operating income may be influenced by managerial skills and may derive, in part, from nontaxable property. The income to be capitalized must be attributable to the rights in real property in the subject taxable possessory interest and must reflect the restrictions on use inherent in the subject taxable possessory interest.

Economic rent

a. The economic rent of the subject taxable possessory interest may be estimated by reference to (i) the contract rent for the subject taxable possessory interest; (ii) contract rents for comparable taxable possessory interests; (iii) contract rents for comparable fee simple absolute interests in real property; or (iv) contract

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rents for other comparable interests in real property. All such contract rents shall have been negotiated in an open and competitive market involving real property reasonably comparable to the subject taxable possessory interest in terms of physical attributes, location, legally enforceable restrictions on the property's use, term of possession, and risk of cancellation of the taxable possessory interest by public owner. In addition, the contract rents shall have been negotiated sufficiently near in time to the valuation date as to shed light on the economic rent of the subject taxable possessory interest.

b. When using the contract rent of a taxable possessory interest as an indicator of the economic rent, the assessor shall add to the contract rent (i) an estimate of the amount, if any, by which the contract rent has been reduced because improvements have been constructed at the possessor's expense that will revert to the public owner at the end of the term of possession; and (ii) an estimate of the amount, if any, by which the contract rent has been reduced because the possessor will bear the cost of restoring the real property to its original condition on reversion to the public owner, including the cost of removing improvements (less any estimated salvage value of, or reimbursement value for, the improvements), or the cost of any similar obligation.

c. To arrive at the income to be capitalized, any expense necessary to maintain the income from the subject taxable possessory interest, including any element of ''gross outgo'' as defined in subsection (c) of rule 8, whether paid by the public owner or the possessor, must be deducted from the estimated economic rent if the expense will be paid out of the estimated economic rent.

Net Operating Income

a. Net operating income is gross operating income less allowed expenses. Gross operating income, allowed expenses, and net operating income are defined herein consistent with ''gross return,'' ''gross outgo,'' and ''net return,'' respectively, in subsection (c) of rule 8.

b. When valuing a taxable possessory interest using operating income, allowed expenses include the following: cost of goods sold (if applicable), typical operating expenses, typical management expense, an allowance for a return on working capital, and an allowance for a return on the value of any nontaxable property that contributes to the gross operating income. Typical operating expenses may include expenses for the rental of personal property, for the provision of security services, and for advertising and promotional services, provided such expenses are necessary for the production of the gross income. Typical operating expenses and typical management expense include expenses that an owner/operator typically would bear to maintain the property and to continue the production of income from the property but are borne by the public owner in the case of the subject taxable possessory interest.

c. Allowed expenses do not include the following: amortization, depreciation, depletion charges, debt retirement, interest on funds invested in the taxable possessory interest, the contract rent for the taxable possessory interest, property taxes on the taxable possessory interest, income taxes, or state franchise taxes measured by income.

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(D) Capitalization Rate. Subsection (g) of rule 8 provides that a capitalization rate may be developed by either comparing the anticipated net incomes of recently sold comparable properties with their sales prices, or by deriving a weighted average of the capitalization rates (rates of return) for debt and equity capital appropriate to California money markets. In accordance with rule 8, the capitalization rate used in the valuation of a taxable possessory interest may be developed by (i) comparing the anticipated net incomes from comparable taxable possessory interests with their sales prices stated in cash or its equivalent and adjusted as described in subsection (e)(1)(A); (ii) comparing the anticipated net incomes of comparable fee simple absolute interests in real property with their sales prices stated in cash or its equivalent, provided the comparable fee properties are not expected to produce significantly higher net incomes subsequent to the subject taxable possessory interest's term of possession than during it; or (iii) by deriving a weighted average of the capitalization rates for debt and equity capital appropriate for the subject taxable possessory interest, weighting the separate rates of debt and equity by the relative amounts of debt and equity capital expected to be used by a typical purchaser of the subject taxable possessory interest. Consistent with subsection (f) of rule 8, the capitalization rate shall contain a component for property taxes where applicable.

(f) VALUATION OF PRE-DE LUZ TAXABLE POSSESSORY INTERESTS. Except as specifically provided otherwise by law, and excluding a taxable possessory interest involving the production of gas, petroleum, or other hydrocarbons, the value of a taxable possessory interest created prior to December 24, 1955, and not since renewed or extended (i.e., a ''Pre-De Luz'' taxable possessory interest) is the excess of the fair market value on the valuation date of the taxable possessory interest over the present value of unpaid future contract rent for the unexpired term of possession (i.e., for the term of possession). This value may be estimated using one or more of the following methods, as appropriate for the taxable possessory interest being valued.

(1) COMPARATIVE SALES APPROACH TO VALUE. A Pre-De Luz taxable possessory interest may be valued by the comparative sales approach using the direct comparison method or the indirect comparison method, as described in subsection (e)(1), but with the following modifications:

(A) Direct Comparison Method. In the direct comparison method, the present value of the unpaid future contract rent is not added to the sale price of the taxable possessory interest.

(B) Indirect Comparison Method. In the indirect comparison method, the value of the possessor's rights as if owned in fee is reduced by the present value of the unpaid future contract rent of the taxable possessory interest, as well as by the value of those property rights for the period subsequent to the term of possession.

(2) COST APPROACH TO VALUE. A Pre-De Luz taxable possessory interest may be valued by the cost approach as described in subsection (e)(2), but the present value of any unpaid future contract rent of the taxable possessory interest in land for the term of possession is also deducted.

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(3) INCOME APPROACH TO VALUE. A Pre-De Luz taxable possessory interest may be valued by the income approach using the direct income method or the indirect income method, as described in subsection (e)(3), but with the following modifications:

(A) Direct Income Method. In the direct income method, the net income to be capitalized is reduced by the unpaid future contract rent for the term of possession, as well as by allowed expenses.

(B) Indirect Income Method. In the indirect income method, the present value of the unpaid future contract rent for the term of possession is deducted from the value of the fee interest, as well as the deduction of the present value of the property rights for the period subsequent to the term of possession.

History: Adopted January 6, 1971, effective February 18, 1971.
Amended December 17, 1975, effective January 25, 1976.
Amended January 22, 1998, effective May 6, 1998.
Amended March 27, 2002, effective July 11, 2002. Amended to provide for the valuation of taxable possessory interests and to include provisions of former rules 23, 24, 25, and 26, which were repealed.

Rule 22. CONTINUITY OF POSSESSORY INTERESTS.

Reference: Sections 107, 107.1, 107.4, Revenue and Taxation Code.

(a) The continuity of possession or exclusive use necessary to establish a possessory interest will vary according to the location and character of the property. The continuity of use necessary for finding a possessory interest to exist is satisfied when the possessor of the property uses it to substantially the same extent as would an owner engaged in the same activity.

(b) Standards for determining the existence of taxable possessory interests based on continuity are:

(1) Actual or constructive possession or exclusive use of property on the lien date for the current year.

(2) Recurrent possession or exclusive use, whether or not the period extends through the lien date, when there is a history on the lien date of recurring use by the present or former possessors making a similar use of the property.

(3) Infrequent actual possession or exclusive use on a recurrent basis when the continuation of the right to possession or exclusive use is conditioned on or evidenced by the possessor having made a contribution to the value of the property by way of investment on or near the property occupied.

History: Adopted January 6, 1971, effective February 18, 1971.

Rule 27. VALUATION OF POSSESSORY INTERESTS FOR THE PRODUCTION OF HYDROCARBONS.

Reference: Sections 107, 107.2, 107.3, Revenue and Taxation Code.

(a) The taxable value of all possessory interest for the production of gas, petroleum, and other hydrocarbon substances from beneath the surface of the earth shall be determined by application of the comparative sales or income approach in the manner prescribed in subsection (a) or (b) of section 25 except as provided in subsection (b) of this section.

(b) The taxable value of a possessory interest for the production of hydrocarbon substances from beneath the surface of the earth shall be determined by application of the comparative sales or income approach in the manner prescribed in subsection (a) or (b) of section 26 if:

(1) the interest was created or last extended or renewed on or before July 26, 1963, and the rate of royalties or other right to share in production was not reduced because of an increase in the assessed value of such interest or

(2) the interest was created on or before July 26, 1963, and has been extended or renewed thereafter pursuant to authority which prohibits reduction of the rate of royalty or other right to share in production because of an increase in the assessed value of such interest.

History: Adopted January 6, 1971, effective February 18, 1971.

Rule 28. EXAMPLES OF TAXABLE POSSESSORY INTERESTS.

Reference: Sections 107, 107.1, 107.2, 107.3, 107.4, Revenue and Taxation Code.

The following are examples of commonly encountered taxable possessory interests:

(a) The right to explore for, capture, and reduce to possession gas, petroleum, and other hydrocarbons in public lands.

(b) The possession of an employee in housing owned by a public agency, irrespective of whether occupancy of the housing is a condition of employment except when the facility also serves as the employee's work area to which the employer has full access.

(c) The right to cut and remove standing timber on public lands.

(d) The right to graze livestock or raise forage on public lands.

(e) The possession of public property at harbors, factories, airports, golf courses, marinas, recreation areas, parks, and stadiums. Possessory interests may include land subject to the ultimate grant of a United States patent, commercial and industrial sites, and water rights.

History: Adopted January 6, 1971, effective February 18, 1971.

Rule 29. POSSESSORY INTERESTS IN TAXABLE GOVERNMENT-OWNED REAL PROPERTY.

Authority: Section 15606 (c), Government Code.

Reference: Article XIII, section 11, California Constitution.

(a) DEFINITIONS. For purposes of this rule:

(1) ''Assessed value'' is defined in subdivision (a) of section 135 of the Revenue and Taxation Code.

(2) ''Improvements'' are defined in rule 122.

(3) ''Land'' is defined in rule 121.

(4) A ''lease for agricultural purposes'' is a lease for the purpose of the production or husbandry of plants or animals, including gardening, horticulture, fruit growing, and the storage and marketing of agricultural products.

(5) ''Other taxable improvements'' are improvements owned by a local government outside of its boundaries that are taxable for property tax purposes pursuant to section 11(a), excluding taxable replacement improvements.

(6) ''Real property'' is the appraisal unit of real property, as defined in section 104 of the Revenue and Taxation Code, that persons in the marketplace commonly buy and sell as a unit or that is normally valued separately.

(7) ''Section 11'' means section 11 of Article XIII of the California Constitution.

(8) The ''section 11 taxable possessory interest limitation amount'' means the fair market value of the taxable government-owned real property on the lien date less the section 11 value of the taxable government-owned real property on the lien date.

(9) The ''section 11 value of taxable government-owned real property'' means the sum of: (i) the section 11 assessment amount for the taxable lands included in the real property on the lien date, computed pursuant to subdivisions (b) and (c) of section 11; (ii) the section 11 assessment amount for any taxable replacement improvements included in the real property on the lien date computed pursuant to the provisions of subdivision (d) of section 11; and (iii) the fair market value of other taxable improvements included in the real property on the lien date, if any.

(10) ''Taxable government-owned real property'' is real property owned by a local government outside of its boundaries that is taxable for property tax purposes pursuant to section 11(a).

(11) ''Taxable lands'' are lands owned by a local government outside of its boundaries that are taxable for property tax purposes pursuant to section 11(a).

(12) ''Taxable possessory interest'' is defined in rule 20.

(13) ''Taxable replacement improvements'' are improvements owned by a local government outside of its boundaries that are taxable for property tax purposes pursuant to section 11(a) because they were constructed by the local government to replace improvements that were taxable when acquired.

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(14) The ''total assessed value of all taxable possessory interests'' means the aggregate assessed values of all taxable possessory interests in an appraisal unit of taxable government-owned real property on the lien date.

(b) TAXABLE POSSESSORY INTERESTS IN TAXABLE GOVERNMENT-OWNED REAL PROPERTY. Except as set forth below in subsection (c) of this regulation, taxable possessory interests in taxable government-owned real property, excluding those created as a result of the possessor having a lease for agricultural purposes, shall be assessed and taxed for purposes of property taxation in the same manner as other taxable possessory interests.

(c) LIMITATION ON THE ASSESSMENT OF TAXABLE POSSESSORY INTERESTS IN TAXABLE GOVERNMENT-OWNED REAL PROPERTY. On each lien date, the total assessed value of all taxable possessory interests in an appraisal unit of taxable government-owned real property shall be determined. If the total assessed value of all taxable possessory interests on the lien date exceeds the section 11 taxable possessory interest limitation amount on the lien date, then the assessed values of the taxable possessory interests shall be reduced as follows: (i) if there is only one taxable possessory interest in the appraisal unit of taxable government-owned real property on the lien date, then the assessed value of that taxable possessory interest shall be reduced so that it does not exceed the section 11 taxable possessory interest limitation amount; or (ii) if there is more than one taxable possessory interest in the appraisal unit of taxable government-owned real property on the lien date, then the assessed value of each such taxable possessory interest shall be ratably reduced in the proportion that it bears to the total assessed value of all taxable possessory interests until the total assessed value of all taxable possessory interests no longer exceeds the section 11 taxable possessory interest limitation amount.

History: Adopted October 24, 2001, effective February 9, 2002.

Rule 41. MARKET VALUE OF TIMBERLAND.

Reference: Sections 110, 401, 423.5, Revenue and Taxation Code.

(a) THE TIMBER APPRAISAL UNIT. In determining the timber to be valued as a unit, there shall be combined those parcels having:

(1) The same legal ownership. Timber sale contracts shall not be included in the unit.

(2) Commercial timber production as a dominant use.

(3) Geographical and physical conditions which permit similar treatment and economic removal of the timber to a common processing center. The typical practices of timberland owners and timber purchasers shall be used as a guide to indicate the geographical areas which are suitable for inclusion in the unit. Parcels

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shall not be excluded from the unit because they are outside the county, or because they are eligible for assessment under Section 423.5 of the Revenue and Taxation Code.

(b) IMMEDIATE HARVEST VALUE OF TIMBER. The immediate harvest value of the timber on each of the separate parcels in the unit shall be determined. Immediate harvest value is the amount of cash or its equivalent for which timber would be transferred from a willing and informed seller to a willing and informed buyer, both seeking to maximize their incomes, if the timber could be harvested in the forthcoming year. The appraiser must consider all elements of value, such as volume by species, quality, defect, market conditions, volume per acre, size of timber, accessibility, topography, logging conditions, and distance from a processing center capable of utilizing the timber.

(c) MARKET VALUE OF TIMBER. This section shall only apply to timber in the unit not eligible for assessment under Section 423.5 of the Revenue and Taxation Code. The immediate harvest value of the timber on the timber appraisal unit is synonymous with market value if all the merchantable timber may reasonably be harvested in the forthcoming year. If the immediate harvest value of the timber on the appraisal unit is not synonymous with market value, it shall be converted to market value by application of a valuation factor to the immediate harvest value of the timber on each parcel in the unit. In determining the valuation factor, the appraiser shall consider the effect on market value of the total timber volume on the unit and the length of time over which the owner and knowledgeable prospective purchasers might reasonably be expected to harvest the timber, as indicated by sales of comparable timbered properties.

(d) MARKET VALUE OF TIMBERLAND. This section shall only apply to areas in the unit not eligible for assessment under Section 423.5 of the Revenue and Taxation Code. The market value of the timber on each parcel in the appraisal unit shall be added to the market value of the land as determined by the comparative sales approach. When land included within the timber appraisal unit has uses in addition to timber production, the appraiser shall determine its value with consideration for such uses, as evidenced by recent sales of comparable land. Allowances must be made for the value of any trees or improvements included in the sales of properties used as indicators of the value of land in the appraisal unit.

History: Adopted March 27, 1968, effective April 28, 1968.
Amended November 16, 1972, effective January 21, 1973.

Rule 51. AGREEMENTS QUALIFYING LAND FOR ASSESSMENT AS OPEN-SPACE LANDS.

Reference: Section 421, Revenue and Taxation Code.

An agreement made pursuant to the Land Conservation Act of 1965 prior to November 10, 1969, qualifies for restricted-use assessment pursuant to sections 423

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and 426 of the Revenue and Taxation Code if, taken as a whole, it provides restrictions, terms, and conditions which are substantially similar to or more restrictive than those which were required by such act for a contract at the time the agreement became effective or which have subsequently been made less restrictive by the Legislature.

(a) MANDATORY PROVISIONS. The agreement must contain provisions at least as restrictive as the following:

(1) An initial term of years sufficient to make the agreement effective for ten successive lien dates and an annual renewal date at which time another year is automatically added to the term unless a notice of nonrenewal is given prior to such date.

(2) An exclusion of uses for the duration of the agreement other than agricultural uses and compatible uses as defined by the Land Conservation Act, the agreement, or the resolution establishing the agricultural preserve in which the property is located.

(3) A provision making the agreement binding upon and inuring to the benefit of all successors in interest of the owner.

(b) DISQUALIFYING PROVISIONS. An agreement in order to qualify for restricted use assessment must not contain any of the following:

(1) A provision purporting to bind the assessor to a particular assessment formula.

(2) A provision nullifying the agreement by reason of the owner's death or factors arising because of his death.

(c) CANCELLATION. The agreement may contain a cancellation provision as to all or part of the land if the following procedures are required under the terms of the agreement:

(1) Cancellation by mutual agreement, which may consist of a request by the owner and the approval by the board of supervisors or city council of the cancellation.

(2) A public hearing before the board or council.

(3) Notice of hearing by mail to each owner in the agricultural preserve of land under contract or agreement and publication of notice pursuant to section 6061 of the Government Code, provided, however, that a county or city may provide for such notice by ordinance instead of incorporating this requirement in the agreement.

(4) Findings by the board or council that cancellation is not inconsistent with the purposes of the Land Conservation Act of 1965 and is in the public interest.

The existence of an opportunity for another use of the land shall not be sufficient reason for cancellation. A potential alternative use of the land may be considered only if there is no proximate land not subject to a Land Conservation Act contract or

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agreement suitable for the use to which it is proposed the subject land be put. The uneconomic character of an existing agricultural use shall not be sufficient reason for cancellation. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable agricultural use to which the land may be put.

(d) CANCELLATION FEE—WAIVER OR DEFERRAL. A provision for cancellation of the agreement must carry with it a cancellation fee payable by the owner to the county treasurer as deferred taxes which is at least 50 percent of the full market value of the land when relieved of the restriction, as found by the assessor, multiplied by the latest assessment ratio that had been published pursuant to section 251 of this code when the agreement was initially entered into. The determination of unrestricted value may be made the subject of an equalization hearing.

The agreement may provide for waiver or deferral by the board of supervisors or city council and may authorize the board or council to make the waiver or deferral contingent upon future action of the landowner if the agreement provides for a lien on the subject land securing the performance of the act upon which the waiver or deferral is made contingent. Waiver or deferral of the cancellation fee or a portion thereof may be allowed by the agreement if the waiver is subject to these findings by the board or council:

(1) It is the public interest and the best interests of the program to conserve agricultural land that such payment be waived or deferred.

(2) The reason for the cancellation is an involuntary transfer or involuntary change in the use of the land and the land is not suitable and will not be immediately used for a purpose which produces a greater economic return to the owner.

(e) OTHER PROVISIONS. If an agreement contains a clause relating to any of the following subjects, it may do so only under the conditions stated:

(1) A provision nullifying the agreement at or immediately before the time an action in eminent domain is filed or land is acquired in lieu of eminent domain (a) if the fee title, or other interest less than fee which would prevent the land from being used for agricultural or compatible uses, is being condemned and (b) if the agreement is nullified only as to land actually condemned or acquired or as to such land and a remaining portion that is rendered unsuitable for agricultural or compatible uses.

(2) A provision requiring the payment of liquidated damages by the landowner in case of breach of the agreement if this remedy does not impair enforcement of the agreement by injunction or specific performance.

(3) A provision cancelling or terminating an agreement upon annexation of the subject land by a city if the land was within one mile of the city at the time the agreement was initially executed, the city protested the execution of the agreement pursuant to section 51243.5 of the Government Code, and the city states its intent not to succeed in its resolution of intention to annex.

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(f) SUBSTANTIAL SIMILARITY. An agreement having a provision which is more restrictive than required by the Land Conservation Act of 1965 for a contract may qualify even though it is deficient in some other respect. The mandatory provisions of subparagraph (a), however, are minimum requirements which if deficient cannot be compensated for from some other source. Similarly, the disqualifying provisions of subparagraph (b) are such a substantial departure from the statutory provisions for a contract that their existence cannot be offset by other more restrictive provisions. A deficiency in the procedures set forth in subparagraphs (c) and (d) or in the conditions in subparagraph (e) may be compensated for by other more restrictive provisions except that, with respect to subparagraphs (c) and (d), an agreement that contains a cancellation provision cannot dispense with basic requirements of (1) a public hearing on a cancellation request of which the public is given notice and (2) findings by the board or council based on the evidence.

An agreement that does not allow a county or city to waive the cancellation fee under any circumstances is more restrictive than the requirements of the Land Conservation Act for a contract. Such an agreement is substantially similar to a contract even though it also allows a reduction of the cancellation fee after notice of nonrenewal has been given by the proportion that the number of whole years remaining until expiration of the agreement bears to ten.

(g) EFFECTIVE DATE. This rule shall be effective from and after March 1, 1971.

History: Adopted February 17, 1970, effective March 26, 1970.

Rule 52. VALUATION OF PERENNIALS OTHER THAN TIMBER AS OPEN-SPACE LANDS.

Reference: Sections 423 and 429, Revenue and Taxation Code.
Section 15606, Government Code.

(a) MINIMUM VALUE. The restricted value of land planted to fruit-bearing trees, nut-bearing trees, vines, bushes, or other perennials except timber, and the perennials thereon, pursuant to sections 423 and 429 of the Revenue and Taxation Code, shall be determined by capitalizing the larger of (1) the net income that the land and such perennials can be expected to yield under prudent management and subject to the applicable restrictions or (2) the net income that the land can be expected to yield over a typical rotation period, as evidenced by historic cropping patterns and agricultural commodities grown, if planted to typical annuals grown in the area. ''Typical annuals grown in the area'' means annual crops that are actually grown in substantial quantities on land that is comparable to the subject property within the meaning of section 402.5 of the Revenue and Taxation Code.

(b) CAPITALIZATION OF RENTAL INCOME. In estimating such net income, property tax appraisers shall consider the rental income from recently consummated leases, negotiated at arms' length, for comparable plantings and the

Rule 52. (Contd.)

net income from owner-operated comparable plantings, giving more weight, other things equal, to the former than to the latter. Leases, however, must be for the full life of the perennials, or multiples thereof, if the rental income is to be used without adjustment for variations in expected yields as young perennials mature and older perennials decline. Allowance must also be made, when using rental income, for amortization of the landlord's investment in perennials and other depreciable property used in the enterprise.

(c) CAPITALIZATION OF OWNER-OPERATOR'S INCOME. When estimating the value of a planting of perennials by capitalizing the income it is expected to yield a prudent owner-operator, property tax appraisers shall first estimate the annual net income from the total operating unit over and above the income required to provide a fair return on capital invested in operating assets other than the land and perennials and to amortize such investments if they are depreciable. Such net income shall then be segregated into (1) the net income that can be fairly attributed to the land, which shall not be less than the net income the land could be expected to yield if planted to typical annual crops grown in the area, and (2) the balance, which shall be considered the income from the perennials. The income attributed to the land shall be capitalized in perpetuity by dividing it by the capitalization rate prescribed in section 423(b) of the Revenue and Taxation Code. The income from perennials shall be capitalized by a method that provides for return of capital utilizing the capitalization rate prescribed in section 423(b). The present worths of the income streams thus imputed to the land and the perennials shall be added to derive the restricted value of the land and perennials.

(d) ESTIMATION OF INCOME. The income attributable to the land shall be estimated by one of the following procedures:

(1) Estimate the amount of net income the land would yield if planted to typical annual crops grown in the area. This procedure is particularly appropriate where comparable lands are commonly planted to annual crops.

(2) Estimate the amount of net income required under current market conditions to justify an investment equal to the replacement cost of the perennials with a life equal to the estimated total economic life of the perennials and subtract this amount of net income from the estimate of the total net income from the land and perennials. This procedure is particularly appropriate where bare land sales are uncommon and comparable land is seldom planted to annuals.

(3) Estimate the market value of the land by the comparative sales approach and multiply this estimate by a market-derived rate of return. Sales used for comparative purposes shall not include those materially influenced by the possibility of non-agricultural uses. The market value thus derived for the land shall be used only for the purpose of allocating income between the land and perennials.

History: Adopted February 17, 1970, effective March 26, 1970.
Amended January 6, 1971, effective February 18, 1971.
Amended February 25, 1998, effective June 12, 1998.

Rule 53. OPEN-SPACE VALUE OF TIMBERLAND.

Reference: Section 423.5, Revenue and Taxation Code.

(a) THE TIMBER APPRAISAL UNIT. The timber appraisal unit shall be as defined in Property Tax Rule No. 41, except that it shall include only properties eligible for assessment under Section 423.5 of the Revenue and Taxation Code.

(b) TAXABLE VALUE. Land and standing timber used for the production of timber for commercial purposes, whether planted or of natural growth, when eligible for assessment under Section 423.5 of the Revenue and Taxation Code, shall be valued by determining the present worth of the net income which the future harvest of timber crops can reasonably be expected to yield and the present worth of the net income attributable to other allowed compatible uses of the land. The value of timber which is exempt under Article XIII, Section 3(j) of the State Constitution shall be excluded when determining taxable value of the property, but the value of land supporting exempt timber shall be included and determined in accordance with section (f).

(c) NET INCOME. The amount of income to be capitalized is the net income which an informed owner or an informed buyer of the timber appraisal unit may anticipate on the lien date that the property assessable under Section 423.5 of the Revenue and Taxation Code will yield in the future from the harvest of timber crops and the net income from other allowed compatible uses of the property. Net income shall be estimated as follows:

(1) When computing the expected annual or periodic net income from the harvest of timber crops, the appraiser shall determine the difference between revenue and expenditures. Revenue shall be estimated by multiplying the expected annual or periodic volume of timber to be harvested in the future by the immediate harvest value per unit of volume for similar timber. Revenue shall include all income from all forest products. Expenditures shall include the estimated outlays of money which are ordinary and necessary for the production and maintenance of revenue as defined in Section 423 of the Revenue and Taxation Code.

(2) When computing the net income attributable to compatible uses, the appraiser shall determine the difference between revenues and expenditures for each type of compatible use. Revenue shall be estimated on the basis of rents, fees, or charges for the use as provided by recently consummated leases, contracts, or verbal agreements on the subject property or comparable properties. Expenditures shall include any outlays which are ordinary and necessary for the production of revenue from the compatible use.

(d) INCOME CAPITALIZATION. The shape of the future net income stream shall govern the method used to discount the various future incomes.

(1) If the property is capable of producing an equal annual income in perpetuity or may be valued as if it will produce an equal annual income, the expected annual net income shall be divided by the capitalization rate to estimate present worth.

Rule 53. (Contd.)

(2) If the property is capable of producing an equal periodic income in perpetuity or may be valued as if it will produce an equal periodic income, the expected net income shall be divided by $(1 + p)^n - 1$, where n is the number of years between receipt of the periodic incomes and p is the capitalization rate.

(3) If the property is not capable of producing perpetually an equal annual income or an equal periodic income, but is capable of producing unequal annual or periodic incomes at regular or irregular intervals, the present worth of the net income stream shall be estimated by computing the sum of the present worths of the individual incomes on a year-by-year or period-by-period basis.

(e) AREAS WITHOUT TIMBER EXEMPTION. The appraiser shall estimate the annual or periodic net income from these areas in accordance with section (c). Taxable value will be the present worth of land and timber in accordance with section (d), using the capitalization rate prescribed in Section 423(b)(1), (2), and (3) of the Revenue and Taxation Code.

(f) AREAS WITH TIMBER EXEMPTION. In determining the taxable value for these areas by excluding the value of exempt timber, the appraiser shall:

(1) Derive a total value for the land and exempt timber by:

(A) Estimating the annual or periodic net income from these areas in accordance with section (c).

(B) Computing the present worth of the land and timber in accordance with section (d), using a capitalization rate which is the sum of the bond and risk rate components prescribed in Section 423(b)(1) and (2) of the Revenue and Taxation Code.

(2) Allocate the total value derived in (1) between the land and exempt timber by:

(A) Estimating the market value of the property using the comparative sales approach.

(B) Subtracting the estimated market value of the timber. The remainder will be the estimated market value of the land under the exempt timber and is to be used only for purposes of allocating present worth between the exempt timber and the land thereunder.

(C) Multiplying the present worth of the property, as determined in (1)(B), by the ratio of the market value of the land to the total market value of the property, as determined from (2)(A) and (B), to derive the present worth of the land plus the present worth of the taxes.

(D) Computing the taxable value of the land by multiplying the present worth derived in (2)(C) by a fraction in which the numerator is the sum of the capitalization rate components prescribed in Section 423(b)(1) and (2) and the denominator is the sum of the capitalization rate components prescribed in Section 423(b)(1), (2), and (3).

Rule 53. (Contd.)

(g) TOTAL TAXABLE PROPERTY VALUE. The taxable value for the nonexempt areas, as determined in section (e), shall be added to the taxable value for the exempt areas, as determined in section (f), to determine the total taxable property value. The value assigned to each parcel in the unit shall reasonably reflect each source of income that is attributable to the parcel.

(h) EFFECTIVE DATE. This rule shall be effective from and after March 1, 1973.

History: Adopted November 16, 1972, effective March 1, 1973.
Amended December 17, 1975, effective January 25, 1976.

Rule 54. VALUATION OF LAND UNDER A LAND CONSERVATION ACT AGREEMENT THAT FAILS TO QUALIFY UNDER RULE 51.

Reference: Sections 402.1, 421, 423, Revenue and Taxation Code.

Land (other than timberland), fruit- or nut-bearing trees, and vines subject to an enforceable Land Conservation Act agreement that, according to the criteria set out in Section 51 of this chapter, do not qualify for assessment under Section 423 of the Revenue and Taxation Code shall be appraised at market value, pursuant to Section 402.1 of that Code. Any conflicting assessment provisions in the agreement are unconstitutional and shall be disregarded.

The market value of such land, or of such land and perennials, shall be estimated by using either the comparative sales method or the income method or both.

(a) THE COMPARATIVE SALES APPROACH. If the comparative sales method is used and the restrictions imposed by the agreement have more than a minimal effect on the value of the property, the recently sold properties to which the subject property is compared shall be those similarly restricted as to use and preferably so restricted for a similar remaining period. If there is substantial evidence, however, that the restrictions on the subject property will be removed or materially modified in the predictable future, the subject property may also be compared with recently sold properties which have natural limitations on their use that are adjudged to have substantially the same effect as the legal limitations on the subject property. The sold properties shall also have the characteristics described in Section 402.5 of the Revenue and Taxation Code.

(b) THE INCOME APPROACH. If the income method is used and the restrictions imposed by the agreement have more than a minimal effect on the value of the property, the appraiser shall proceed as follows:

(1) Estimate, preferably by reference to sale prices of comparable properties not subject to Land Conservation Act agreements or contracts, the market value that the land, or the land and perennials, would have on the current lien date if the property

Rule 54. (Contd.)

were not subject to the agreement but were subject to any other applicable restrictions and assume that this will be the value of the land, or of the land and perennials, when free of the agreement restrictions;

(2) Using a market-derived capitalization rate (including an appropriate property tax component), find the present worth of the value derived in step 1 deferred by the number of years or fractions thereof until the land, or the land and perennials, will be freed of the agreement restrictions by a notice of nonrenewal that has already been given or by a notice that could be given prior to the agreement's next anniversary date;

(3) Using the capitalization rate prescribed by section 423(b) of the Revenue and Taxation Code or a capitalization rate otherwise derived that is appropriate for an income stream which does not include capital appreciation, estimate the present worth of the income (including any amenities not represented by money income) from the restricted use of the land, or of the land and perennials, during the period between the lien date and the date to which the value derived in step 1 is deferred;

(4) Add the present worths derived in steps 2 and 3.

History: Adopted March 24, 1971, effective April 25, 1971.

Rule 101. BOARD-PRESCRIBED EXEMPTION FORMS.

Reference: Section 251, Revenue and Taxation Code.

The procedure and forms prescribed by the board for claiming the exemptions named in Article 2, Chapter 1, Part 2, Division 1, of the Revenue and Taxation Code shall be employed by each assessor in the administration of the laws relating to such exemptions. Except as specifically authorized by the board with respect to heading, name and address of the property owner, location of the property, assessor's use columns, the sequence of questions, and the like, the assessor shall not change, add to, or delete the specific wording of the exemption form prescribed by the board, but he may otherwise arrange the content and alter the size and design of an exemption form to meet the needs of his office procedures and facilities. Annually, on or before December 1, the assessor shall notify the board, on a check list provided by the board, of those board-prescribed exemption claim forms, including instructions, which he will reproduce from the current prototype forms and instructions distributed by the board for use for the succeeding assessment year, those forms and instructions which he will produce by other means for use for that year, and those for which he will have no need. When filing the check list, he shall submit to the board in duplicate for approval a draft copy of each form, including instructions, which he will produce by means other than reproduction of the prototypes. If a draft copy does not conform with the specifications prescribed by the board, as required by Section 251 of the Revenue and Taxation Code and this rule, the assessor shall be notified in writing of the variances. He shall submit a revised draft within 30 days of the date of the notice. Not later than February 10, annually, the assessor shall submit to the board a printed copy of each exemption form and its accompanying instructions.

Rule 101. (Contd.)

History: Adopted January 3, 1967, effective January 4, 1967.
Amended September 12, 1969, effective October 18, 1969.
Amended July 31, 1973, effective September 6, 1973.

Rule 121. LAND.

Reference: Sections 110, 401, Revenue and Taxation Code.

Land consists of the possession of, claim to, ownership of, or right to possession of land; mines, quarries, and unextracted mineral products; unsevered vegetation of natural growth; standing timber, whether planted or of natural growth; and other perennial vegetation that is not an improvement (see section 122). Where there is a reshaping of land or an adding to land itself, that portion of the property relating to the reshaping or adding to the land is land. However, where a substantial amount of other materials, such as concrete, is added to an excavation, both the excavation and the added materials are improvements, except that whenever the addition of other materials is solely for the drainage of land to render it arable or for the drainage or reinforcement of land to render it amenable to being built upon, the land, together with the added materials, remains land. In the case of property owned by a county, municipal corporation, or a public district, however, fill that is added to taxable land is an improvement.

History: Adopted December 12, 1967, effective January 18, 1968.

Rule 122. IMPROVEMENTS.

Reference: Sections 105, 110, 401, 401.5, Revenue and Taxation Code.

Improvements consist of buildings, structures, fixtures, and fences erected on or affixed to land; planted fruit and nut trees and vines that are taxable, other than date palms between four and eight years of age; and planted ornamental trees and vines. Where a substantial amount of materials other than land, such as concrete, is added to an excavation, both the excavation and the added materials are improvements, except that whenever the addition of other materials is solely for the drainage of land to render it arable or for the drainage or reinforcement to land to render it amenable to being built upon, the land, together with the added materials, remains land. In the case of property owned by a county, municipal corporation or a public district, fill that is added to taxable land is an improvement.

History: Adopted December 12, 1967, effective January 18, 1968.

Rule 122.5. FIXTURES.

Authority: Section 15606(c), Government Code; and Statutes of 1982, Chapter 1556, Section 5.

Reference: Sections 105, 107, Revenue and Taxation Code.

(a) DEFINITION.

(1) A fixture is an item of tangible property, the nature of which was originally personalty, but which is classified as realty for property tax purposes because it is physically or constructively annexed to realty with the intent that it remain annexed indefinitely.

(2) The manner of annexation, the adaptability of the item to the purpose for which the realty is used, and the intent with which the annexation is made are important elements in deciding whether an item has become a fixture or remains personal property. Proper classification, as a fixture or as personal property, results from a determination made by applying the criteria of this rule to the facts in each case.

(3) The phrase ''annexed indefinitely'' means the item is intended to remain annexed until worn out, until superseded by a more suitable replacement, or until the purpose to which the realty is devoted has been accomplished or materially altered.

(b) PHYSICAL ANNEXATION.

(1) Property is physically annexed if it is attached to, imbedded in, or permanently resting upon land or improvements in accordance with Section 660 of the Civil Code, or by other means that are normally used for permanent installation. If the property being classified cannot be removed without substantially damaging it or the real property with which it is being used, it is to be considered physically annexed. If the property can be removed without material damage but is actually attached, it is to be classified as a fixture unless there is an intent, as manifested by outward appearance or historic usage, that the item is to be moved and used at other locations.

(2) Property may be considered physically annexed if the weight, the size, or both are such that relocation or removal of the property would be so difficult that the item appears to be intended to remain in place indefinitely.

(3) Property shall not be considered physically annexed to realty solely because of attachment to the realty by ''quick disconnect'' attachments, such as simple wiring and conduit connections.

(c) CONSTRUCTIVE ANNEXATION.

(1) Property not physically annexed to realty (including fixtures) is constructively annexed if it is a necessary, integral, or working part of the realty. Factors to be considered in determining whether the property is a necessary, integral, or working part of the realty are whether the nonattached item is designed and/or committed for use with specific realty, and/or whether the realty can perform its desired function without the nonattached item.

Rule 122.5. (Contd.)

(2) Property connected to the realty by quick disconnect conduits which contain power or electronic cable, or allow for heating, cooling, or ventilation service to the connected property is constructively annexed only if it satisfies one of the factors in paragraph (c)(1).

(d) INTENT

(1) Intent is the primary test of classification. Intent is measured with—not separately from—the method of attachment or annexation. If the appearance of the item indicates that it is intended to remain annexed indefinitely, the item is a fixture for property tax purposes. Intent must be inferred from what is reasonably manifested by outward appearance. An oral or written agreement between parties, such as a contract between lessor and lessee, is not binding for purposes of determining intent.

(2) The phrase ''reasonably manifested by outward appearance'' means more than simple visual appearance. A reasonable knowledge of the relationship of the item being classified to the realty with which it is being used is required to determine whether physical or constructive annexation has occurred.

(3) Historic usage of a property may be considered in determining whether or not a property is intended to remain annexed indefinitely. ''Historic usage'' means the normal and continuing use of the property as an item that is annexed either indefinitely or only temporarily.

(e) EXAMPLES. The following examples are illustrative of the foregoing criteria. The classification in each example is based only on the limited description offered. Classification of an actual property must be based on all the relevant facts concerning that property.

(1) A stair and a walkway that are bolted to a large machine (the machine is a fixture) to facilitate operation and routine maintenance of the machine are fixtures because they are physically annexed by the bolts and they are necessary for the normal operation of the machine. A stair and a walkway that are bolted to a machine to facilitate a major overhaul of the machine and that will be removed and used elsewhere after the overhaul is completed are personal property because the physical attachments are clearly temporary.

(2) A printing press that weighs several tons, is held in place by gravity, and which because of its size cannot be removed from the building without substantial damage to the building is regarded as physically annexed and is a fixture. A free-standing safe, although of considerable weight, is personal property if it is movable without damage to itself or to the real property wherein it is located and the real property was not designed or constructed specifically to accommodate the safe.

(3) Headsets and special stools designed to be used with a telephone switchboard (the switchboard is a fixture) are not physically annexed, but they are constructively annexed because they are designed specifically for use with the switchboard, the switchboard cannot be used properly without them, and they are not

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usable or only marginally usable independently of the switchboard. Ordinary office chairs used with a switchboard remain personal property because their design makes them fully usable for other purposes.

(4) A special tool, die, mold, or test device is constructively annexed to a fixture if it is specifically designed for and is in use or has been used on or in conjunction with the particular fixture and the intended use of the fixture would be impaired without the item. A common hand tool or general-purpose test device is personal property even if in practice the item is used only on the fixture.

(5) A crane that operates on rails but is too large or too heavy for ordinary railroad tracks or cannot be operated off the property because the rails are not connected to railroad tracks is constructively annexed to the rails.

(6) A floating dry dock that is designed for use with adjacent shore facilities at a single location is a fixture even though the dry dock is occasionally moved to facilitate dredging under the dry dock. A floating dry dock that is used at several locations is personal property even though it is used primarily at one location in conjunction with special shore facilities.

(7) Computer hardware components are fixtures if extensive improvements, such as a building (or portion of a building), air conditioning, emergency power supply, and a fire suppression system are constructed specifically to accommodate the components, and the improvements are not useful or are only marginally useful other than as housing and support of the components. A computer is personal property if it can be moved without material damage or expense and it is not essential to the intended use of the real estate. A computer is constructively annexed to a fixture if it is dedicated to controlling or monitoring the fixture and is otherwise necessary for the intended use of the fixture.

(8) Machines that are not physically annexed to the realty and that do not operate interdependently with the realty are personal property even though special flooring, conduits, and/or overhead racks are installed to accommodate wiring from a power source to the machines, because special accommodations for wiring are normal features of an industrial building and the building is fully usable for its intended purpose (as an industrial building) without the particular machines.

(9) An automated teller machine (ATM) typically consists of a safe, monitor, keypad, central processing unit, magnetic card reader, cash dispenser, printer/transaction record dispenser and deposit receptor. An ATM installed as a free-standing or counter-top unit within a building, such as a bank, supermarket or other retail establishment, is personal property. However, an ATM installed in a structure that was built primarily for the purpose of housing the ATM is a fixture because the realty cannot perform its desired function without the ATM. An ATM installed in the wall of a building is a fixture because the portion of the realty containing the ATM was designed or extensively modified for the specific purpose of housing the ATM and cannot perform its desired function without the ATM.

(10) A wind machine consists of a large fan mounted on a tower, a motor to drive the fan, a fuel tank or electrical hookup and related equipment necessary for its operation. Wind machines are used for agricultural purposes in the protection of

Rule 122.5. (Contd.)

crops from adverse weather conditions. When a wind machine is physically annexed to the realty with the intent that it be annexed indefinitely as provided in this rule, it is properly classified as real property and assessed as a fixture. A wind machine which is a fixture is an improvement to realty as defined in Revenue and Taxation Code section 105 and Rule 122, but it is not a building, a structure or a fence. In a typical application, a wind machine is physically annexed to the realty because it is attached to, imbedded in or permanently resting upon land or improvements as provided in subsection (b)(1) of this rule with the intent that it remain "annexed indefinitely" as that phrase is defined in subsection (a)(3) of this rule. A wind machine that is attached to or resting on a truck bed or other movable equipment is personal property and not a fixture because it is not intended to remain annexed indefinitely to realty.

For property tax assessment purposes, wind machines that are defined as fixtures shall be appraised in accordance with subsection (e) of rule 461, which subsection provides that, for purposes of decline in value determinations, fixtures and other machinery and equipment classified as improvements constitute a separate appraisal unit.

History: Adopted August 18, 1983, effective November 17, 1983.
Amended February, 4, 1997, effective June 7, 1997.
Amended October 28, 1997, effective December, 31, 1997.
Amended October 24, 2001, effective February 6, 2002. Added Example 10 to subsection (e) to specify that permanently affixed wind machines used for agricultural frost protection are properly classified as fixtures for property tax assessment purposes and shall be appraised in accordance with subsection (e) of rule 461.

Rule 123. TANGIBLE PERSONAL PROPERTY.

Reference: Sections 106, 110, 401, 401.5, 601, Revenue and Taxation Code.

All property that may be seen, weighed, measured, felt, or touched, or which is in any other manner perceptible to the senses, except land and improvements, is tangible personal property.

History: Adopted December 12, 1967, effective January 18, 1968.

Rule 124. EXAMPLES.

Reference: Sections 110, 401, 401.5, 601, Revenue and Taxation Code.
Section 15606, Government Code.

(a) The listing that follows is illustrative of the application of the foregoing rules to various items of property, and is not intended to be inclusive of all items of property required to be classified. For the specific items listed, the classification

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shown will be followed unless there are persuasive distinguishing facts which warrant other classification. However, nothing herein requires classification of an item of property to be dependent upon anything more than what is reasonably manifested by outward appearances, and nothing herein shall preclude the application, to a value estimate of a combination of properties of more than one class, of a percentage representing the appraiser's determination of the amount attributable to each class.

(b) The foregoing rules of classification, together with the following listing, relate solely to classification of property and not to evaluation thereof.

(1) LAND.

Air rights
Alfalfa
Artichokes
Asparagus
Bushes
Contoured ground
Date palms, 4 to 8 years old
Ditches
Embankments
Fill (except on property owned by county, municipal corporation or public district)
Graded ground
Grasses, perennial, natural or planted
Levees
Leveled ground
Minerals
Roads, unpaved
Shrubs
Strawberry plants
Timber, standing
Water rights
Wells, oil and water

(2) IMPROVEMENTS.

Air conditioner, built-in
Alarm system
Awnings
Back bars
Beds, wall
Blast furnaces
Blinds
Boilers, built-in
Booths, restaurant
Booths, spray paint
Bowling lanes
Breakwaters, artificial (above fill)
Buildings
Cabinets, built-in
Carpets, wall-to-wall
Cash boxes, service station, attached to stands
Check-out stands, built-in
Compressors
Computer components operating an improvement, for example an elevator
Concrete flatwork
Coolers, built-in
Cooler, water evaporator, attached to main line
Counters, bank
Counters, restaurant
Cranes, on fixed ways
Dams (except small earthen)
Drinking fountains
Ducts
Elevators
Escalators
Exhaust systems, built-in
Fences
Fill (on property owned by county, municipal corporation or public district)
Flagpole
Floor covering, hard surface
Flumes
Foundations
Fruit trees, taxable planted (except date palms under 8 years of age)
Furnishings, built-in
Grape stakes, in place
Grape trellises
Kilns

Rule 124. (Contd.)

Kitchen appliances, built-in
Laundry machines, launderette
Lighting fixtures
Machinery, heavy or attached, inside or outside of building
Music systems, coin and electric boxes attached to booth or counters
Nut trees, taxable planted
Organs, pipe
Ovens, bake, attached
Partitions, affixed
Piling, for support of structure
Printing press, built-in
Pumps, fixed
Radiators, steam
Railroad spurs
Refrigerator, built-in
Roads, paved
Safe deposit box nests, if attached to building
Safes, imbedded
Scales, truck
Screen, theatre
Shelves, attached
Signs, attached to buildings
Signs on separate supports
Sink, built-in
Sprinkler system, lawn
Sprinkler system, fire
Sprinkler system, agricultural (except portable)
Stoves, built-in
Tanks, buried
Tanks, butane, propane and water softener, unburied but which remain in place
Tellers' cages
Towers, radio and television
Utilities, on-site
Vault doors
Vaults
Vines, taxable, planted
Walls

History: Adopted December 12, 1967, effective January 18, 1968.
Amended February 25, 1998, effective June 5, 1998.

Rule 131. FRUIT AND NUT TREE AND GRAPEVINE EXEMPTION.

Reference: Sections 105, 211, 223, Revenue and Taxation Code.

(a) "ORCHARD" OR "VINEYARD" DEFINED. An orchard or a vineyard is a systematic planting of fruit and nut-bearing trees or grapevines as opposed to individual plantings for ornamental purposes. The exemption under Section 3(i), Article XIII, California Constitution, applies to such fruit and nut-bearing trees or grapevines planted in orchard or vineyard form. The fruit, nuts, or grapes, until harvested, are growing crops exempt from taxation under Section 3(h), Article XIII, California Constitution. Upon becoming subject to tax, previously exempt trees and vines shall be valued in accordance with Section 466 of this chapter.

(b) LENGTH OF EXEMPTION. The exemption applies to those trees in an orchard until four years after the season of planting in orchard form, and those vines in a vineyard until three years after the season of planting in vineyard form. The exemption ceases on the fifth lien date after the season of planting trees in orchard form, and on the fourth lien date after the season of planting vines in vineyard form. For example, fruit trees planted in orchard form in 1975 became assessable on the 1980 lien date.

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(c) NURSERY STOCK. Trees and vines in existence but unplanted in orchard or vineyard form on the lien date are not at that time within the coverage of the constitutional exemption. Fruit trees and nut trees and vines which are personal property are exempt pursuant to Section 223 of the Revenue and Taxation Code, if owned by a grower but held for subsequent planting in orchard or vineyard form provided they are planted during the assessment year by the grower. Section 223 has no application to plant nurseries.

(d) REPLACEMENT PLANTINGS. The exemption applies not only to complete new orchard and vineyard plantings, but also to those trees or vines in an orchard or vineyard under the age of four or three years respectively which constitute additions to or replacements of plantings in an orchard or vineyard.

(e) GRAFTING. Where a previously exempt tree or vine has attained commercial production and there is a grafting which causes a reoccurrence of a nonproducing period (except for nurse limbs), this shall be treated as a new planting which creates a new exemption period. Any other grafting or budding or inarching does not create a new exemption period.

(f) DATE PALMS. Date palms are subject to all of the foregoing regulations applicable to fruit and nut trees. From the lien date that they become taxable to their eighth year of age their value shall be included in the assessed value of the land. Thereafter they are assessable and taxable as improvements. (See Section 105, Revenue and Taxation Code.)

(g) ENROLLMENT. Fruit and nut-bearing trees and grapevines are not improvements while exempt from taxation. If the assessor places a value for such trees and vines on the roll, the entry shall be made in the personal property column. After the exemption expires, their value is to be enrolled in the improvement column. (See Section 105, Revenue and Taxation Code.)

(h) STRUCTURAL IMPROVEMENTS. Stakes, trellises, fences, and other structural orchard and vineyard improvements are taxable both during and after the exemption period for trees and vines.

History: Adopted February 9, 1967, effective February 14, 1967.
Amended March 9, 1967, effective March 10, 1967.
Amended July 1, 1969, effective August 2, 1969.
Amended December 17, 1975, effective January 25, 1976.
Amended July 27, 1982, effective February 10, 1983.

Rule 132. CEMETERY EXEMPTION.

Reference: Sections 204, 251, 254, 255, 256.5, 260, 270, 271, Revenue and Taxation Code.

(a) SCOPE OF EXEMPTION. Upon timely application on the prescribed form, the cemetery exemption is available on property used or held exclusively for

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the burial or other permanent deposit of the human dead and property used or held exclusively for the care, maintenance or upkeep of such property or such dead, except any such property that is used or held for profit.

(b) MEANING OF "PROPERTY USED OR HELD EXCLUSIVELY FOR BURIAL." In this regulation ''property used or held exclusively for burial'' means (1) property in actual use or prepared made, available, sold or offered for sale or use for burial or other permanent deposit of the human dead; (2) property whose use is incidental to such burial purposes, as described in paragraph (c); and (3) passively held property that qualifies for exemption under paragraph (d).

(c) INCIDENTAL USE OF PROPERTY. Property of an established cemetery which is held exclusively for burial purposes may be planted, landscaped, arborized or maintained if such planting, landscaping, arborizing or maintenance is incidental to the burial purpose, does not produce gross receipts for the claimant, and is for the purpose of embellishing adjacent cemetery property, preserving the appearance of the property and the surrounding area, preventing soil erosion or similar purposes.

(d) PASSIVE HOLDING OF PROPERTY. Passive holding of large sections of land for future cemetery use by an established cemetery is a basis for exemption only if:

(1) The property is held in good faith and exclusively for burial purposes;

(2) The property is dedicated for cemetery use pursuant to statute or otherwise;

(3) The property is qualified for use as a cemetery under zoning laws if applicable; and

(4) The size of the tract being held is reasonable upon the basis of population and mortality trends and tables for the area, the volume of burial conducted and anticipated by the cemetery organization holding the property, the likelihood of the cemetery organization continuing burial activities in the area during the period of anticipated use for burial purposes, and similar factors.

(e) NONEXEMPT PROPERTY OF PROFIT-MAKING CEMETERY ORGANIZATIONS. In addition to property described in paragraphs (f) and (g), burial plots, niches or crypts held for sale by profit-making cemetery organizations are taxable. Burial plots, niches or crypts within a cemetery which is operated for profit are exempt from taxation once they are disposed of, provided the owners do not hold them for profit.

(f) ROADS, PATHS AND EMBELLISHMENT AREAS. Roads, paths and embellishment areas in a cemetery and lobbies, hallways and other common areas in a mausoleum or columbarium, the burial property of which is entirely exempt are also entirely exempt. Roads, paths and embellishment areas in a portion of a cemetery that is held by a profitmaking organization and is not entirely exempt are exempt in the proportion that the exempt acreage in that portion bears to the total acreage in that portion. Lobbies, hallways and other common areas in a mausoleum

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or columbarium held by a profit-making organization, together with the mausoleum or columbarium site, are exempt in the proportion that the exempt burial property in the mausoleum or columbarium bears to the total burial property in the mausoleum or columbarium. The proportion that the exempt burial property bears to total burial property in a mausoleum or columbarium may be determined, at the assessor's option, by reference to either the number or the volume of crypts or niches.

(g) NONEXEMPT PROPERTY OF BOTH PROFIT-MAKING AND NONPROFIT CEMETERY ORGANIZATIONS. Property not used or held exclusively for burial or other permanent deposit of the human dead, or for the care, maintenance or upkeep of such property or such dead, such as floral shops, mortuaries, crematoriums, and orchard or cropland which produces gross receipts for the claimant, is not exempt whether owned by a profit-making or a nonprofit cemetery organization.

History: Adopted February 9, 1967, effective February 14, 1967.

Rule 133. BUSINESS INVENTORY EXEMPTION.

Authority: Section 15606, Government Code.

Reference: Sections 129 and 219, Revenue and Taxation Code.

(a) SCOPE OF EXEMPTION.

(1) ''Business inventories'' that are eligible for exemption from taxation under Section 129 of the Revenue and Taxation Code include all tangible personal property, whether raw materials, work in process or finished goods, which will become a part of or are themselves items of personalty held for sale or lease in the ordinary course of business.

(A) The phrase ''ordinary course of business'' does not constitute a limitation on the type of property which may be held for sale or lease, but it does require that the property be intended for sale or lease in accordance with the regular and usual practice and method of the business of the vendor or lessor.

(B) The phrase ''goods intended for sale or lease'' means property acquired, manufactured, produced, processed, raised or grown which is already the subject of a contract of sale or which is held and openly offered for sale or lease or will be so held and offered for sale or lease at the time it becomes a marketable product. Property which is ready for sale or lease must be displayed, advertised or otherwise brought to the attention of the potential purchasers or lessees by means normally employed by vendors or lessors of the product.

(2) ''Business inventories'' includes:

(A) Containers or container material such as kegs, bottles, cases, twine and wrapping paper, whether returnable or not, if title thereto will pass to the purchaser or lessee of the product to be sold or leased therein.

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(B) New and used oak barrels used in the manufacturing process that physically incorporate the flavor- and aroma-enhancing chemical compounds of the oak into wine or brandy to be sold, when used for this purpose. However, an oak barrel is no longer business inventory once it loses the ability to impart the chemical compounds that enhance the flavor and aroma of the wine or brandy. An ''oak barrel'' used in the manufacturing process is defined as having a capacity of 212 gallons or less. Oak barrels not used in the manufacturing process but held for sale in the ordinary course of business are also considered business inventory.

(C) Materials such as lumber, cement, nails, steel beams, columns, girders, etc., held by a licensed contractor for incorporation into real property, providing the real property will not be retained for the licensed contractor's use.

(D) Crops and animals held primarily for sale or lease and animals used in the production of food or fiber and feed for animals in either category.

(b) EXCLUSIONS. Property eligible for the ''business inventories'' exemption does not include:

(1) Property of any description in the hands of a vendee, lessee or other recipient on the lien date which has been purchased, leased, rented, or borrowed primarily for use by the vendee, lessee or other recipient of the property rather than for sale or lease or for physical incorporation into a product which is to be sold or leased. Examples of property excluded from business inventories are office supplies, furniture, machines and equipment and manufacturing machinery, equipment and supplies such as dies, patterns, jigs, tooling or chemicals used to produce a chemical or physical reaction, and contractors' supplies, tools, concrete forms, and other items that will not be incorporated into and become a part of the property. Also ineligible are materials that a contractor is holding to incorporate into real property that will be retained for his own use.

(2) Property being used by its owner for any purpose not directly associated with the prospective sale or lease of that property.

(3) Property actually leased or rented on the lien date.

(4) Property which has been used by the holder prior to the lien date, even though held for lease on the lien date.

(5) Property intended to be used by the lessor after being leased or during intervals between leases even though held for lease on the lien date.

(6) Property in the hands of a lessor who, with intent to enjoy the benefits of the inventory exemption, had leased the property for a period that expired shortly before the lien date but who renewed, extended or renegotiated the lease shortly thereafter.

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(c) SERVICE ENTERPRISES. Property held by a person in connection with a profession which is primarily a service activity such as medicine, law, architecture or accountancy is not ''business inventories'' held for sale or lease even though such property may be transferred to a patient or client incidental to the rendition of the professional service. Property held by enterprises rendering services of a nonprofessional type such as dry cleaners, beauty shop operators and swimming pool service companies is to be regarded as ''business inventories'' held for sale if such property is delivered as an item regularly included in the service.

(d) REPAIRERS AND RECONDITIONERS. Persons engaged in repairing or reconditioning tangible personal property with the intent of transferring parts and materials shall be regarded as holding said parts and materials as ''business inventories.''

(e) AGRICULTURAL ENTERPRISES. Animals, crops and feed held primarily for sale or lease in the ordinary course of business are included in the term ''business inventories,'' as are animals used in the production of food or fiber and feed for such animals.

(1) ''Animals used in the production of food and fiber'' includes all animals customarily employed in the raising of crops or for the feeding, breeding and management of livestock, or for dairying, or any other confined animals whose products are normally used as food for human consumption or for the production of fiber useful to man. Excluded are animals held by an owner or lessee principally for sport, recreation or pleasure such as show animals, horses kept for racing or horses and other animals kept as pets.

(2) The term ''crops'' means all products grown, harvested, and held primarily for sale, including seeds held for sale or seeds to be used in the production of a crop which is to be held primarily for sale. It does not include growing crops exempted pursuant to Article XIII, section 3 (h), of the California Constitution or fruit trees, nut trees, and grapevines exempted by section 223 of the Revenue and Taxation Code.

(3) The term ''food'' means property normally considered as food for human consumption.

(4) Feed for animals held primarily for sale or lease or for animals used in the production of food or fiber constitutes ''business inventories'' subject to exemption. It includes every type of natural-grown or commercial product fed to animals except medicinal commodities intended to prevent or cure disease unless the medicinal commodities are purchased as a component part of feed for such animals.

History: Adopted November 20, 1968, effective December 21, 1968.
Amended January 7, 1970, effective February 8, 1970.
Amended January 6, 1971, effective February 18, 1971.
Amended February 5, 1975, effective March 20, 1975.
Amended August 20, 1980, effective November 14, 1980.
Amended October 10, 1984, effective February 21, 1985.
Amended January 5, 2000, effective July 26, 2000.
Amended and effective April 6, 2001.

Rule 134. HOUSEHOLD FURNISHINGS, PERSONAL EFFECTS, AND PETS EXEMPTION.

Reference: Section 224, Revenue and Taxation Code.

Household furnishings, personal effects, and pets, as defined in Section 224 of the Revenue and Taxation Code, owned by any individual but not held or used in connection with a trade, profession, or business or for the production of income are exempt from ad valorem taxation.

Household furnishings are personal property and include such items as furniture, appliances, rugs, cooking utensils, and art objects. Not included within the definition of household furnishings are items classified as improvements, such as wall-to-wall carpeting, built-in ovens, ranges, and dishwashers.

Personal effects is a category of personal property which includes such items as money kept for household use, clothing, jewelry, tools, hobby equipment and collections, and other recreational equipment. By statute, it does not include boats, aircraft and vehicles.

The term ''pets'' includes any animals (e.g., fish, birds, insects, cats, dogs, horses) held for noncommercial purposes and not as an investment. A show animal that is awarded ribbons or cups would not be considered as held in connection with a trade, profession, or business. However, when the animal's proficiency gains monetary or other awards of substantial value, or when the animal is used in the production of offspring that are sold or exchanged for items of substantial value, it is no longer considered a pet entitled to the exemption.

Storage in a warehouse or other place of safekeeping in and of itself does not alter the status of such property. No claim for exemption need be filed by an eligible owner, and no entries need be shown on the assessment roll.

History: Adopted January 8, 1969, effective February 12, 1969.
Amended August 6, 1969, effective September 11, 1969.
Amended December 12, 1969, effective January 11, 1970.
Amended February 17, 1972, effective April 2, 1972.

Rule 135. HOMEOWNERS' PROPERTY TAX EXEMPTION.

Authority: Section 15606, Government Code

Reference: Sections 218, 218.5, 229, 253.5, 255, 255.1, 255.2, 255.3, 255.6, 255.7, 255.8, 275, 408, 465, 504, 531.1, 531.6, 2190, 2192, 2611.6, and 2615.5, Revenue and Taxation Code.

(a) EXEMPTION CLAIMS.

(1) DISTRIBUTING FORMS. In addition to mailing forms to persons acquiring title and recording their ownership of their eligible dwellings, the assessor of each county shall make available to homeowners during the twelve months preceding the lien date for the next succeeding fiscal year, and the twelve months

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succeeding such lien date, to and including December 10, of the fiscal year, forms on which to claim the exemption for that fiscal year (1) by providing blank forms at the assessor's office, (2) by distributing supplies of blank forms to places throughout the county to which residents of the county have easy access, or (3) by a combination of these methods. The assessor need not send a new claim form upon transfer of ownership in a property in any instance in which either spouse retains an ownership interest and otherwise continues to qualify for exemption.

(2) WHEN CLAIMS ARE DUE. A claim is timely filed if, on or before the February 15 immediately preceding the start of the fiscal year, it is delivered to the assessor's office or is properly addressed and mailed with postage prepaid. A post office cancellation mark of February 15 or earlier is conclusive evidence of timely filing by mail. The assessor may accept other proof which satisfies him/her that a claim was mailed on or before February 15, provided such proof is offered on or before February 15 of the following year.

A claim is filed late and an exemption of the lesser of five thousand six hundred dollars ($5,600) or 80 percent of the taxable value of the dwelling shall be granted if the claim is delivered to the assessor's office or is properly addressed and mailed with postage prepaid between February 16 and December 10, inclusive, of the calendar year in which the claim was due. In determining when a claim is filed, Section 166 of the Revenue and Taxation Code may be applicable in some instances. Section 166 provides that a filing shall be deemed to be timely if it is sent by United States mail, properly addressed with postage prepaid, and is post marked on or before the required date, or if other proof satisfactory to the assessor establishes that the mailing occurred on or before the required date.

A veteran including a disabled veteran who is filing for the veterans' exemption or disabled veterans' exemption on his/her principal place of residence for the first time or who was granted a veterans' exemption or disabled veterans' exemption on his/her principal place of residence in the immediately preceding year, may make a timely filing for the homeowners' exemption within 15 days after the assessor finds him/her ineligible for the veterans' exemption or disabled veterans' exemption and notifies him/her thereof. Those veterans not notified shall have until the next lien date to make a timely filing.

(3) SIGNATURE OF CLAIMANT. The signature of one spouse who is a co-owning occupant is valid for the other co-owning occupant spouse for the year of filing and for subsequent years. The signature of one co-owning occupant (non-spouse) is valid for other co-owning occupants for the year of filing and for subsequent years. The assessor may require the refiling of the claim by the other spouse if the spouse who signed the active claim has died or has established a principal place of residence elsewhere, but the assessor shall require the refiling of the claim by the other co-owner who has occupied the dwelling continuously if the co-owner (non-spouse) who signed the active claim has died or has established a principal place of residence elsewhere.

If a timely filed claim lacks a signature or any required information, the assessor may, for good cause, grant the claimant a single period of measurable length within which to cure the defect. Such period shall not extend beyond October 15 unless the

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defect is found and the claimant is notified thereof after July 15, in which event it shall not extend beyond three months of such notification. If a claim is filed late, the assessor may allow the claimant up to six months, or three months after the claimant is notified, whichever is later, to cure the defect.

(4) PROCESSING CLAIMS. When a claim for exemption is received, the assessor shall note thereon the fiscal year to which the initial filing relates and the date of filing. He/she shall ascertain:

(A) Whether the claim was filed within the period prescribed by law;

(B) Whether the claimant was,

1. an owner of record, an owner whose title had not yet been recorded, or a purchaser under a contract of sale of the dwelling identified in the claim; or

2. an owner of shares or a membership interest in a cooperative housing corporation;

(C) Whether more than one claim has been filed on the same dwelling.

If the assessor finds the claimant eligible for the exemption for the initial fiscal year claimed, he/she shall enroll it, provided that he/she cannot then allow a veterans' or another homeowners' exemption against an assessment that relates, in its entirety or in part, to the same dwelling. He/she shall, however, allow the disabled veterans' exemption on the dwelling in place of the homeowners' exemption. If he/she finds that the claimant is not eligible for the initial year claimed, but is or will be eligible for a subsequent year, he/she shall treat the claim as if it had been filed initially for the subsequent year.

(5) NOTICE OF UNAPPROVED CLAIMS. After determining that an application for exemption is not approved, the assessor shall notify the claimant of the reason or reasons for nonapproval. Failure to receive such notice shall not entitle the claimant to the exemption.

(b) NOTICE OF CIRCUMSTANCES OF INELIGIBILITY.

(1) MAILING FORMS. The Notice of Circumstances of Ineligibility required by Section 2615.5 of the Revenue and Taxation Code and the Advice of Termination reply form are mailed annually by the county with the tax bill or copy thereof.

(2) WHEN ADVICE OF TERMINATION IS DUE. The assessor shall accept a signed Advice of Termination reply form or any signed statement of the claimant, co-owning spouse, or other co-owner adequately describing the property for which the exemption was previously claimed, indicating that the property no longer qualifies for the exemption. The statement should state the lien date as of which the claimant no longer claims the exemption; but if it does not, the assessor, if otherwise unable to ascertain this information from the claimant, shall treat the statement as first applying to the lien date to which the next succeeding fiscal year from the date of filing the statement relates. Such a statement to the assessor shall be known as an ''Advice of Termination'', which satisfies the duty of the claimant to inform the assessor of ineligibility for the exemption.

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An Advice of Termination is timely filed if, on or before December 10 of the fiscal year for which the exemption is to be first terminated, it is delivered to the assessor's office or is placed in the mail properly addressed with postage prepaid. A post office cancellation mark of December 10 or earlier is conclusive evidence of timely filing by mail. The assessor may accept other proof which satisfies him/her that an Advice of Termination was mailed on or before December 10, provided such proof is offered on or before December 10 of the following year.

(3) PROCESSING ADVICES OF TERMINATION. When an Advice of Termination is received, the assessor shall ascertain the fiscal year for which it is first effective. The assessor shall determine that the person signing the advice is the claimant or co-owning spouse, claimant co-owner or other co-owner, or is otherwise authorized to sign the notice as guardian, administrator, or other legal representative.

(4) TERMINATION. After determining that the Advice of Termination is valid, the assessor shall terminate the exemption and, if the Advice of Termination has not been filed by December 10, make an escape assessment including a penalty of 25 percent of the escape value.

(5) ERRONEOUSLY FILED ADVICE OF TERMINATION. If an Advice of Termination is filed in error, the assessor shall accept the written request of the person filing it or of an owner or co-owner that it be withdrawn and reinstate the exemption provided the request is received on or before January 1 of the next succeeding calendar year following the erroneous filing.

(c) VERIFICATION OF ELIGIBILITY.

When either the Franchise Tax Board or the State Board of Equalization notifies an assessor that a claimant whose principal place of residence has qualified as of January 1 of any year for an exemption has received the credit for qualified renters under the provisions of the Personal Income Tax Law for the taxable year embracing January 1 of the same year, the assessor shall investigate and, if appropriate, terminate the exemption and make an escape assessment under Section 531.6 of the Revenue and Taxation Code. If the claimant failed to file the Advice of Termination by December 10, a penalty of 25 percent of the escape value shall be added to the assessment.

(d) ENTRY ON THE ROLL—IDENTITY OF CLAIMANT. The assessor shall identify the name of each claimant receiving the exemption on the roll or on a subsidiary public record arranged in parcel number order, or in another order, to which the public has access for the purpose of verifying the name of the claimant.

(e) MAINTAINING ASSESSOR'S RECORDS.

(1) CLAIM FILE FORMAT. The active and inactive claim files may be maintained in the form of original documents and papers, photocopies thereof, on microfilm, or in an electronic format through the use of electronic imaging technology. For purposes of this section, electronic imaging technology means a read-only access system of microphotography, optical disk, or any other technique

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that does not permit additions, deletions or changes to the original document. Reproductions from these systems shall be considered true copies of the original documents and associated records. The system may include, but is not limited to, any magnetic media, optical disk media, or any other machine readable form.

(2) ACTIVE CLAIM FILE. The active claim file, which is composed of the claims or a record thereof of properties that received the exemption as of the last preceding lien date, shall be kept in current parcel number order, or in another order that permits ready retrieval of a claim or production of a true copy thereof, including a photocopy, microfilm, or reproduction from electronic imaging systems upon audit of the records. Information from a subsequent investigation pursuant to subsections (c) or (f) of this section shall be indicated on the claim or in other records.

The assessor shall compare each copy of a document transferring ownership to real property, received pursuant to Section 255.7 of the Revenue and Taxation Code, with the active claim file. When this comparison discloses the transfer of an eligible dwelling, the assessor shall:

(A) Retain the reference to the property in the active claim file where the new owner was also a previous co-owning occupant spouse who did not sign the claim but continues to be an owner or where a co-owning occupant who filed a separate claim continues to be an owner, or

(B) Delete the reference to the property from the active claim file and mail a homeowners' exemption claim form to the new owner, as required by Section 255.3 of the Revenue and Taxation Code.

(3) INACTIVE CLAIM FILE. The inactive claims, photocopies, microfilm, or reproduction from electronic imaging systems, shall be kept according to the last year the claim was allowed and arranged within a year's group in parcel number order, or in another order that permits ready retrieval of information or the production of a true copy respecting a claim upon audit of the records. Documents such as the Advice of Termination and information from a subsequent investigation pursuant to Subsection (c) or (f) of this section shall be attached to the claim or shall be kept in another order or in an electronic format that permits ready retrieval upon audit.

(4) CLAIM NOT OPEN TO PUBLIC INSPECTION. Homeowners' exemption claims, Advices of Termination, and related homeowners' exemption records containing social security numbers of claimants, both past and present, are not public documents and shall not be open to public inspection.

(5) DESTRUCTION OF RECORDS. Claims, Advices of Termination, and other records required in the administration of the exemption may be destroyed six years after the lien date for the last year for which the exemption claim was active,

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provided that when such documents have been photocopied, microfilmed, or stored in an electronic image format pursuant to subsection (e)(1) of this section, the originals may be destroyed three years after the lien date for the tax year for which they were received or made by the assessor.

(f) COOPERATIVE HOUSING CORPORATIONS. Annually prior to January 1 the assessor shall request on a form prescribed by the Board from every cooperative housing corporation containing dwelling units eligible for the exemption (1) a list of owners of shares or memberships entitling them to occupancy of a particular dwelling unit and (2) the apartment numbers or other designations of the dwelling units they are entitled to occupy as shown on the corporate shareholder or membership record for the lien date of the current year. The list shall also indicate which of the shareholders or members resided on the lien date in the designated dwelling units. The assessor shall compare this list with a similar list from the preceding lien date and determine:

1. Those dwelling units in which a newly listed shareholder or member is indicated to be residing on the lien date;

2. Those dwelling units in which a previously listed shareholder or member, who was also indicated to have been a resident, no longer is listed as a shareholder or member or, although so listed, no longer is indicated to be a resident.

With respect to the dwelling units in the first category, the assessor shall provide a claim form for the newly listed shareholders or members by April 1. With respect to dwelling units in the second category the assessor shall investigate to determine whether an active claim by the former shareholder or member in residence should be terminated.

If a cooperative housing corporation fails to respond to the assessor's request by March 15, the assessor immediately shall obtain the information requested by other suitable means and mail claim forms to new shareholders or members by April 1.

History: Adopted December 12, 1968, effective December 19, 1968.
Amended February 24, 1969, effective February 28, 1969.
Amended June 18, 1969, effective June 24, 1969.
Amended December 12, 1969, effective January 11, 1970.
Amended January 6, 1971, effective February 18, 1971.
Amended February 17, 1972, effective April 2, 1972.
Amended March 20, 1975, effective April 26, 1975.
Amended October 14, 1980, effective October 27, 1980.
Amended September 11, 1985, effective January 5, 1986.
Amended February 2, 1994, effective March 4, 1994.
Amended November 21, 1996, effective April 7, 1997.
Amended and effective March 8, 1999.
Amended and effective June 4, 2002. Change seven years to six years in subsection e(5).

Rule 135.5. HOMEOWNERS' PROPERTY TAX EXEMPTION—SUPPLEMENTAL ASSESSMENTS

Reference: Sections 75.20, 75.21, 75.22, 75.31, 75.51, 75.52, 218, 218.5, 229, 253.5, 255, 255.1, 255.2, 255.3, 255.6, 255.7, 255.8, 275, 408, 531.1, 531.6, 1605, 2190, 2611.5, and 2615.5, Revenue and Taxation Code.
Section 15606, Government Code.

EXEMPTION CLAIMS.

(a) APPLICABILITY OF SECTION. The provisions of this section apply only to claims for the homeowners' exemption made pursuant to the provisions of Chapter 3.5 (commencing with section 75) of Part 0.5 of Division 1 of the Revenue and Taxation Code. Except where the context or the specific provisions of the section otherwise require, the provisions of section 135 also apply to claims for the exemption from the supplemental roll.

(b) DISTRIBUTING FORMS. The assessor of each county shall make forms on which to claim the exemption available in the manner set forth in section 135(a)(1).

(c) WHEN CLAIMS ARE DUE. A claim is timely filed if it is delivered to the assessor's office or if properly addressed and mailed with postage prepaid on or before the 30th day following the date of notice of a supplemental assessment. A post office cancellation mark of said 30th day or earlier is conclusive evidence of timely filing by mail. The assessor may accept other proof which satisfies him/her that a claim was mailed on or before said 30th day, provided such proof is offered on or before the same date of the following year. In addition to the claim being timely filed, the claimant must meet the requirements for the exemption no later than ninety (90) days after the date of the change in ownership or the completion of new construction.

When a claim is filed late, that portion of tax attributable to 80 percent of the amount of exemption available shall be cancelled or refunded if the claim is delivered to the assessor's office or is properly addressed and mailed with postage prepaid after the 30th day following the date of notice of a supplemental assessment but on or before the date on which the first installment of taxes on the supplemental tax bill becomes delinquent, as provided by section 75.52 of the Revenue and Taxation Code.

(d) NUMBER OF CLAIMS REQUIRED. Usually, one claim will suffice. Where a change in ownership or new construction occurs on or after June 1 up to and including December 31, one claim for the single supplemental assessment for the current fiscal year shall apply to that assessment and, if granted, to the following fiscal year and to fiscal years thereafter based upon the one-time filing. For example, where a dwelling changes ownership on July 1, 1987, one claim for the single supplemental assessment for the 1987–88 fiscal year shall apply to that assessment. If the claim is granted, it shall also apply to the regular roll assessment for the 1988–89 fiscal year and for fiscal years thereafter based upon one-time filing.

Where a change in ownership occurs on or after January 1 up to and including May 31, one claim for the two supplemental assessments, one for the current fiscal year and one for the following fiscal year, can apply to those assessments, but the claim

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will not apply to the regular roll assessment for that following fiscal year because the claimant did not own and occupy the dwelling on the lien date. For example, where a dwelling changes ownership on May 1, 1987, one claim for the two supplemental assessments, one for the 1986–87 fiscal year and the other for the 1987–88 fiscal year, can apply to those assessments. The claim will not apply to the regular roll assessment for the 1987–88 fiscal year, however.

If the claim does apply to the two supplemental assessments or if it applies only to the supplemental assessment of the following fiscal year, and if the claim is granted, the claim will apply also to a third fiscal year and to fiscal years thereafter based upon the one-time filing. For example, if a claim applies to two supplemental assessments, one for the 1986–87 fiscal year and the other for the 1987–88 fiscal year, or if it applies only to the supplemental assessment for the 1987–88 fiscal year, and if the claim is granted, the claim will apply also to the regular roll assessment for the 1988–89 fiscal year and for fiscal year thereafter. If, however, the claim applies only to the supplemental assessment for the current fiscal year, the claim will not apply to the third fiscal year and to fiscal years thereafter because no claim was in effect for the following (second) fiscal year. For example, if a claim applies only to the supplemental assessment for the 1986–87 fiscal year, the claim will not apply to the regular roll assessment for the 1988–89 fiscal year and for fiscal years thereafter because no claim was in effect for the 1987–88 fiscal year.

Where a claim for a supplemental assessment or assessments is denied, a separate claim for a future regular roll assessment must be filed.

After a change in ownership, additional supplemental assessments may arise from the completion of new construction. A separate claim must be filed for each additional assessment arising from the completion of new construction where less than the full exemption is then in effect. Only one claim is required, however, for a single new construction project completed on or after January 1 up to and including May 31, which results in two supplemental assessments, one for the current fiscal year and one for the following fiscal year. Once the full exemption is in effect, no additional claims need be filed.

(e) SIGNATURE OF CLAIMANT. Where two or more co-owning occupants, either spouses or non-spouses, reside in a dwelling, the signature of one co-owning occupant is sufficient to claim the exemption for all occupants so long as the person who signed the claim continues to reside at that location. Where a spouse who signed the active claim dies or establishes a principal place of residence elsewhere, the assessor may require refiling of the claim by the other spouse. Where a co-owner (non-spouse) who signed the active claim dies or establishes a principal place of residence elsewhere, the assessor shall require refiling of the claim by one of the other occupant co-owners.

If a timely filed claim lacks a signature or any required information, the assessor may, for good cause, grant the claimant a single period of measurable length within which to cure the defect. Such period shall not extend beyond six (6) months from the date of filing of the claim unless the defect is not found and the claimant is not notified thereof within a reasonable time to cure the defect before expiration of the

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six-month period, in which event it shall not extend beyond three (3) months of such notification. If a claim is filed late, the assessor may allow the claimant up to six months, or three months after the claimant is notified, whichever is later, to cure the defect.

(f) PROCESSING CLAIMS. The assessor shall process a claim in the manner set fourth in section 135 (a) (4) and shall enroll the exemption if the claimant is eligible for the full exemption for the initial fiscal year or years claimed. The assessor shall not approve a claim for property with respect to which the full exemption is already in effect.

(g) NOTICE OF UNAPPROVED CLAIMS. If a claim is not approved, the assessor shall notify the claimant of the reason or reasons for nonapproval. Failure to receive such notice shall not entitle the claimant to the exemption. This notice is not required when the claim is not approved because the property is already receiving the full exemption.

History: Adopted July 28, 1987, effective January 20, 1988.
Amended and effective September 18, 1998.

Rule 137. APPLICATION OF THE WELFARE EXEMPTION TO PROPERTY USED FOR HOUSING.

Reference: Sections 214, 214.01, 214.1, 214.2, 254, 254.5, 255, Revenue and Taxation Code; Article XIII, Sections 4(b) and 5, California Constitution.

(a) Housing and related facilities owned and used by community chests, funds, foundations or corporations organized and operated for religious, hospital, scientific or charitable purposes is eligible for the welfare exemption from property taxation as provided in Revenue and Taxation Code section 214. A single uniform statewide standard shall be used to determine whether the welfare exemption applies to housing and related facilities owned and used by qualified organizations. The standard is whether the use of the property by the organization for housing and related facilities is a use that is incidental to and reasonably necessary for the accomplishment of the exempt purposes of the organization. For purposes of applying the uniform statewide standard, the phrase ''Use of property that is incidental to and reasonably necessary for the accomplishment of the exempt purposes of the organization'' includes the use of property that is institutionally necessary for the operation of the organization as provided in subdivision (i) of section 214 of the Revenue and Taxation Code.

(b) For purposes of determining whether property used for housing and related facilities is eligible for the welfare exemption, the terms ''incidental to and reasonably necessary for'' and ''institutionally necessary'' are identical and interchangeable; the term ''institutionally necessary'' means and includes

Rule 137. (Contd.)

''incidental to and reasonably necessary for'' and vice versa. No distinctions in application of the welfare exemption to housing and related facilities shall be based on any difference or divergence between the terms.

(c) For purposes of determining eligibility for the welfare exemption, it is the use of the housing and related facilities by the organization owning the property that is to be considered, not the use by the occupants. If the organization's use of the property is incidental to and reasonably necessary for the accomplishment of the organization's exempt purposes, the property is eligible for exemption. The occupant's use for personal or residential purposes is secondary to the organization's primary exempt purpose and shall not disqualify the property from exemption either in whole or in part.

(d) The location of the property in relation to other property owned and used by the exempt organization is irrelevant to the application of the exemption. It is the use of the property by the organization which is the determining factor. The fact that the housing is located on property in a remote area may be considered in determining whether the housing is incidental to and reasonably necessary for the operation of the organization.

(e) Examples: The following examples illustrate the application of the welfare exemption to housing and related facilities:

Example No. 1: The two-story building with seven completely-furnished apartments is used exclusively to provide temporary low-cost housing to missionaries, clergy, other religious workers and their families on furlough status while in the United States. The articles of incorporation of the nonprofit religious corporation which owns and operates the property provide that its purpose is to provide housing for missionaries, clergymen, other religious workers and their families who work in establishing and furthering its religious purposes throughout the world. This housing is exempt as a facility incidental to and reasonably necessary for the accomplishment of the church's religious and charitable purposes.

Example No. 2: The property of a private school is used to provide board and housing to students. Although most of the school's students were day students, some students relied upon the school for board and lodging. These services provided by the school are reasonably related to the exempt educational activity, and are an exempt use of the property within the school's educational purpose.

Example No. 3: Property owned by a nonprofit corporation is used for housing and related facilities for persons who assemble two weeks each year for purposes of religious instruction and worship. The residential facilities are exempt as within the organization's religious purpose. Housing for caretakers or maintenance workers required to reside at the religious conclave facility is exempt as institutionally necessary.

Example No. 4: A nonprofit religious organization owns housing which it provides to its ministers and their families. Organizational documents require the church to provide housing as part of a system that allows the organization flexibility

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in assigning the clergy, aids in recruiting and keeping the clergy and provides the clergy with privacy and respite. The property is also used regularly for church functions such as youth meetings and organizational committee meetings. The church's use of its property to provide housing for its clergy is exempt as reasonably necessary for the furtherance of its religious purpose.

Example No. 5: The primary missionary activity of a nonprofit religious organization is to publish and disseminate its religious literature to the general public. The organization owns a complex consisting of a temple and six apartment buildings that provide work areas for about 250 devotees, about one-half of whom are involved in the publishing and distribution of the organization's religious books and magazines. The work areas are frequently used at night as sleeping areas since most of the devotees live in the rooms in which they work. The devotees follow a seven-hour daily regimen of communal and individual daily prayers, meditations, chanting, and attendance at temple services and observe a strict diet which necessitates living in the temple complex. Property used for housing the devotees in the temple complex is exempt as reasonably necessary for the fulfillment of the organization's religious objectives.

History: Adopted October 6, 1999, effective December 31, 1999.

Rule 138. EXEMPTION FOR AIRCRAFT BEING REPAIRED, OVERHAULED, MODIFIED OR SERVICED.

Authority: Section 15606, Government Code.

Reference: Sections 220, 1150, 1151, 1152 and 1154, Revenue and Taxation Code.

(a) SCOPE OF EXEMPTION. Any aircraft, certificated or noncertificated, which is in California on the lien date solely for the purpose of being repaired, overhauled, modified, or serviced is exempt from personal property taxation. Aircraft operated intrastate in or interstate into California and aircraft normally based in California do not qualify for exemption.

(b) QUALIFYING CERTIFICATED AIRCRAFT. Aircraft that qualify for exemption include certificated aircraft that have been taken out of revenue service by an air carrier:

(1) for the purpose of being repaired, overhauled, modified, or serviced; and,

(2) with an executed contract or a specific written plan for the purposes described in subsection (b)(1).

Aircraft in California solely for the purposes described in subsection (b)(1) include any incidental and attendant storage.

(c) INTERSTATE OPERATION. Certificated aircraft that have been taken out of revenue service under the provisions of subsection (b) above as of the lien date are not aircraft operated interstate into California for purposes of this rule.

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(d) THE VALUATION OF CERTIFICATED AIRCRAFT. Certificated aircraft, located in or outside of the state, that have been taken out of revenue service, under the provisions of subsection (b) above, shall not be valued pursuant to section 401.15 of the Revenue and Taxation Code nor included in the allocation formula of section 1152 of the Revenue and Taxation Code and rule 202, until the lien date next following the date that such aircraft are returned to revenue service.

(e) REPORTING BY AIR CARRIERS. When filing business property statements, air carriers shall indicate on the property statement or an attachment to the property statement those certificated aircraft which qualify for exemption pursuant to this section. Air carriers shall maintain records adequate to verify that these aircraft qualify for exemption.

History: Adopted November 28, 2001, as an emergency rule, effective December 14, 2001; readopted March 27, 2002, as an emergency, effective April 3, 2002; adopted March 27, 2002, as a permanent rule, effective May 20, 2002. Adopted to make clear that the exemption provided by section 220 of the Revenue and Taxation Code applies to certificated aircraft out of revenue service and in California under contract for repair, overhaul, maintenance, or service, where such aircraft are serviced in accordance with FAA requirements. The rule also clarifies that certificated aircraft exempt under section 220 are not to be included in the allocation calculations of rule 202.

Rule 139. RESTRICTED ACCESS AS DAMAGE ELIGIBLE FOR REASSESSMENT RELIEF PURSUANT TO REVENUE AND TAXATION CODE SECTION 170.

Authority: Section 15606 (c), Government Code.

Reference: Section 170, Revenue and Taxation Code.

(a) For purposes of determining property eligible for reassessment pursuant to Revenue and Taxation Code section 170, the term ''damage or destruction'' includes diminution in the value of the property resulting from a period of restricted physical access to the property.

(b) ''Restricted physical access to the property'' means that access to the property was wholly or partially denied to the property owner and/or operator, or that the normal business activities of the property owner and /or operator were suspended as a result of compliance with a directive, order, law or other exercise of police or regulatory powers by the federal, state or local government.

(c) ''Restricted area'' means the entire area to which access was wholly or partially denied or in which normal business activities were suspended.

(d) The term ''property eligible for reassessment'' means property located within the restricted area as defined in subsection (c). The term includes real and personal

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property, and includes property which was deemed physically situated in the state on the lien date and subject to property taxation. The term does not include property permanently located outside the boundaries of the restricted area.

(e) The period of restricted physical access includes only that period of time beginning with the date of commencement of governmental action resulting in wholly or partially denying access to the property owner and/or operator or resulting in the suspension of normal business activities, and ending with the date of termination of the governmental action.

(f) Upon receiving a proper application for reassessment, or under the conditions specified in section 170, subdivisions (a) or (l) when no application has been filed, the assessor shall reappraise the property and determine separately the full cash value of land, improvements and personalty immediately before and after the commencement of the period of restricted access. If the sum of the full cash values of the land, improvements and personalty before the commencement of the period exceeds the sum of the values after commencement of the period by the amount stated in section 170, the assessor shall also separately determine the percentage reductions of value in land, improvements and personalty due to the damage or destruction. The assessor shall reduce the values appearing on the assessment roll by the percentages of damage or destruction computed pursuant to section 170, and the taxes due on the property shall be adjusted as provided in subdivision (e) of section 170. However, the amount of the reduction shall not exceed the actual loss.

(g) At the termination of the period of restricted access, the assessor shall make an additional assessment or assessments in accordance with subparagraph (1) or (2):

(1) If the termination of the period occurs on or after January 1, but on or before May 31, then there shall be two additional assessments. The first additional assessment shall be the difference between the new taxable value as of the date of termination and the taxable value on the current roll. The second additional assessment shall be the difference between the new taxable value as of the date of termination and the taxable value to be enrolled on the roll being prepared.

(2) If the termination of the period of restricted access occurs on or after June 1, but before the succeeding January 1, then the additional assessment shall be the difference between the new taxable value as of the date of termination and the taxable value on the current roll.

(h) In determining the new taxable value of the property after the termination of the period of restricted access, the assessor shall consider any changes in procedures or operations, changes in rules relating to access to the property, enhanced security measures or other changed conditions related to the period of restricted access that have an impact on the value of the property after the removal of the restriction.

(i) The assessor may require that an applicant claiming diminution in value due to restricted access shall provide documentation specific to the property interest at issue including, but not limited, to expert opinions of value, comparable sales information, or other information commonly relied upon to establish economic obsolescence.

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Example: Access to airport property throughout California was restricted immediately after the terrorist attacks of September 11, 2001. Air carriers were ordered to ground all flights until further notice. In effect, all airports in California were closed, and no civilian access was permitted. On September 13, 2001, the FAA allowed airports to reopen and carriers to resume operations if certain conditions were met. Although the airports were reopened, additional security measures were imposed, and access to certain areas was restricted to ticketed passengers. Air carriers and airport concessionaires suffered significant reductions in business during the closure and thereafter. Under these conditions air carriers, air cargo carriers and all air commerce-related business, concessions and services, owning, leasing or occupying property located within the boundaries of the airport, (including commercial aircraft), are eligible to submit applications for reassessment if the damage to their property exceeds the amount stated in section 170. In accordance with subsection (f) of this rule, the assessor shall reappraise the subject property by comparing the values of the property before September 11 to the values during the period of restricted access and make appropriate adjustments to the values appearing on the assessment roll. Any taxes due on the property shall be adjusted accordingly. At the termination of the period of restricted access, the assessor shall reassess the property in accordance with subsection (g)(2) of this rule.

History: Adopted March 27, 2002, effective June 15, 2002. Adopted to interpret provisions of Revenue and Taxation Code section 170 to specify that the term ''damage or destruction'' includes restricted access to property caused by a misfortune or calamity or a major misfortune or calamity when that restricted access results in a diminution in the value of the property. The rule specifies that relief is available only to the extent of the value loss sustained during the period of restricted access, prescribes the methods of reappraisal for the period of damage, and provides appraisal guidance for reassessment upon termination of that period.

Rule 151. VESSELS SUBJECT TO THE FOUR PERCENT ASSESSMENT.

Reference: Sections 130, 135, 227, Revenue and Taxation Code.

(a) A vessel which meets the requirements of section 130 of the Revenue and Taxation Code shall be assessed at four percent of full cash value under the provisions of section 227 of said code if it is engaged or employed exclusively in one or more of the following activities:

(1) The taking and possession of fish or other living resource of the sea for commercial purposes.

(2) Instruction or research studies as an oceanographic research vessel.

(3) Carrying or transporting seven or more people for hire for commercial passenger fishing purposes and holds a current certificate of inspection issued by the United States Coast Guard. A vessel shall not be deemed to be engaged or employed

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in activities other than the carrying or transporting of seven or more persons for hire for commercial passenger fishing purposes by reason of that vessel being used occasionally for dive, tour, or whale watching purposes. For purposes of this subdivision, ''occasionally'' means 15 percent or less of the total operating time logged for the immediately preceding assessment year.

(b) In determining whether a vessel is engaged or employed exclusively for ''commercial purposes'' in paragraph (a)(1) above or ''commercial passenger fishing purposes'' in paragraph (a)(3) the assessor shall consider the design of the vessel and the business engaged in by, or occupation of, the owner and any other person leasing or chartering the vessel. In considering the design of the vessel, the assessor shall determine whether the vessel has adequate carrying capacity, gear, and mechanical equipment sufficient to enable the owner to accomplish his intended commercial purpose. Any pleasureboat use of the vessel is disqualifying irrespective of whether the vessel is or is not licensed as a commercial vessel.

(c) Prior to approving the claim of a vessel purporting to be engaged or employed exclusively as an oceanographic research vessel in paragraph (2) the assessor shall require supporting documentation. Such documentation shall include one or more of the following:

(1) A statement of the course of study with a recognized college or university.

(2) The contract pursuant to which the vessel engages in research for a governmental agency, private foundation, or other organization.

(3) A statement of the study being made, the procedure being used, and the estimated completion date.

(d) Vessels that may qualify under this rule include those registered with or licensed by the Department of Motor Vehicles as well as those required to have and having a valid marine document issued by the Department of Transportation, Vessel Documentation Branch, U.S. Coast Guard or any federal agency subsequently granted licensing authority. This rule does not apply to vessels exempt from taxation under article XIII, sec. 3(l) of the Constitution of the State of California.

(e) Tangible personal property subject to the four percent assessment shall include the vessel and all equipment and furnishings that are normally required aboard the vessel during the accomplishment of the functions for which the vessel is being utilized.

(1) Equipment includes navigational equipment such as radio transmitters, receivers, and other radio equipment, radar and sonar equipment, winches, anchors, lifeboats, engines, generators, signal systems, and other operational equipment as well as necessary fishing or scientific equipment. It excludes, however, aircraft which is subject to taxation under Part 10 of Division 1 of the Revenue and Taxation Code. Equipment that is necessary for the accomplishment of the vessel's functions and is required aboard during certain seasons or periods is also subject to the four percent assessment while stored ashore during the off-seasons or periods.

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(2) Furnishings include stoves, dishes, bunks, chairs, fire extinguishers, tools, athletic or recreational equipment, and other property necessary for the accomplishment of the functions of the vessel or the comfort and convenience of the persons on board. Consumable supplies are not part of the vessel. Leased equipment and furnishings that are normally required aboard the vessel during the accomplishment of its functions are to be assessed at four percent of full cash value.

(3) Tangible personal property that is necessary in maintaining, servicing, or repairing the vessel or its equipment and furnishings but is not normally required aboard the vessel is not subject to the four percent assessment. Examples of this type of property are: cranes affixed to the dock and used in loading or unloading the vessel; communication equipment maintained ashore and used in communicating with the vessel; and scientific equipment maintained ashore and used in processing data compiled by a research vessel.

History: Adopted January 7, 1970, effective February 8, 1970.
Amended February 5, 1975, effective March 20, 1975.
Amended December 17, 1975, effective January 25, 1976.
Amended March 30, 1981, effective June 4, 1981.
Amended August 18, 1982, effective February 10, 1983.
Amended December 15, 1997, effective January 14, 1998.

Rule 152. COMPUTER PROGRAM STORAGE MEDIA.

Reference: Article XIII, Section 2, California Constitution; Sections 110, 401, 995, 995.1, 995.2, Revenue and Taxation Code.

(a) Computer programs shall not be valued for purposes of property taxation, except with respect to the valuation of storage media as provided in section 995 of the Revenue and Taxation Code. A licensor of a computer program who does not own, claim, possess or control the storage media on which the program is embodied or stored shall not be subject to assessment with respect to the value of the licensor's copyright interest in the computer program, or with respect to the value of the license fees charged for the use of the computer programs.

(b) Storage media for computer programs, as defined in section 995 of the Revenue and Taxation code, shall be valued as if there were no computer program on such media except basic operational programs.

(c) In accordance with Revenue and Taxation Code Section 405, storage media for computer programs shall be assessed to the person owning, claiming, possessing or controlling the storage media on the lien date. Storage media shall not be assessed to the owner of the copyright in the computer program embodied or stored on the media if the owner of the copyright does not also own, claim, possess or control the storage media subject to assessment.

(d) The term "basic operational program" refers to a "control program," as defined in section 995.2 of the Revenue and Taxation Code, that is included in the

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sale or lease price of the computer equipment. A program is included in the sale or lease price of computer equipment if (i) the equipment and the program are sold or leased at a single price, or (ii) the purchase or lease documents set forth separate prices for the equipment and the program, but the program may not be accepted or rejected at the option of the customer.

(e) In valuing computer equipment that is sold or leased at a single price not segregated between taxable property and nontaxable programs as defined in section 995.2 of the Revenue and Taxation Code, the assessor, lacking evidence to the contrary, may regard the total amount charged as indicative of the value of taxable tangible property.

(f) A person claiming that a single-price sale or lease includes charges for nontaxable programs and services should be required to identify the nontaxable property and services and supply sale prices, costs or other information that will enable the assessor to make an informed judgment concerning the proper value to be ascribed to taxable and nontaxable components of the contract.

(g) When the nontaxable components of a package composed of computer hardware, basic operational programs and nontaxable programs and services may be accepted or rejected at the option of the customer and the charge for each is itemized, such itemization constitutes evidence of the value of the component. Prices charged, whether at the wholesale or the retail level, for hardware only or hardware and basic operational programs also constitute evidence of the value of such property that may be used in segregating values when taxable and nontaxable properties or services are covered by a single-price contract.

(h) Examples

(1) Example 1 (Personal Computers).

Included in the price of every IBM and IBM compatible personal computer and every Apple and every Apple compatible personal computer is a basic input output system (BIOS). BIOS is a copyrighted computer program that controls basic hardware operations, such as interactions with diskette drives, hard disk drives and the keyboard, and that facilitates the transfer of data and control instructions between the computer and peripherals. The operation of other computer programs, such as the various versions of Disk Operating Systems (DOS), Windows, OS/2, UNIX and similar programs, is possible only through the facilities provided by BIOS, but operational programs other than BIOS are not in themselves fundamental and necessary to the functioning of the computer.

(2) Example 2 (Mainframe Computers).

Included in the price of the IBM mainframe computers is a license to use IBM's Licensed Internal Code (LIC) on the computer. LIC is a set of copyrighted computer programs (commonly referred to in the computer industry as microcode) that include the programs that implement the basic functions of the mainframe computer and operate the control logic necessary to execute user instructions to the computer.

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Manufacturers of other computers likewise include in the price of their computers the microcode necessary to implement the basic functions of the computer. The operation of other computer programs is possible only through the facilities provided by microcode, but operational programs other than microcode are not in themselves fundamental and necessary to the functioning of the computer.

History: Adopted September 14, 1972, effective October 19, 1972.
Repealed Old Rule and Adopted New Rule February 21, 1974, effective February 26, 1974.
Amended July 24, 1996, effective November 3, 1996.

Rule 153. LIQUEFIED PETROLEUM GAS TANKS

Reference: Article XIII, section 1(a), California Constitution.
Sections 110 and 401, Revenue and Taxation Code.

(a) DEFINITION. For purposes of this regulation, the term ''liquefied petroleum gas tank'' (LPG tank) means and includes a tank used as a means of storage, delivery, or transfer of liquefied petroleum gas products. The term also includes related equipment, apparatus, gauges and meters, attached to or installed on the tank.

(b) An LPG tank shall be considered leased or rented if the purchaser of the liquefied petroleum gas is required to pay: (1) sales or use tax measured by the purchase price or a separately stated lease or rental price of the tank; or (2) installation fees or charges, maintenance fees or charges, rent, or any other separately stated periodic charge on the LPG tank.

(c) The ultimate consumer of an LPG tank is determined as follows:

(1) A lessee or renter of an LPG tank, as defined in subdivision (b), is the ultimate consumer of the tank for the purposes of this regulation if the property is leased or rented for an extended but unspecified period or for a term of more than six months.

(2) The owner of the LPG tank is the ultimate consumer of the tank for purposes of this regulation if the property is leased or rented, as defined in subdivision (b), for a period of six months or less.

(3) The owner of the LPG tank is the ultimate consumer of the tank if: (i) the LPG tank is not considered leased or rented pursuant to subdivision (b) of this regulation; and, (ii) the LPG tank is not considered exempt business inventory in accordance with regulation 133.

(d) LPG tanks shall be valued in the hands of the ultimate consumer as defined in subdivision (c) of this regulation, and in accordance with regulations 4, 6, 8, and 10;

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provided, however, that in applying regulation 10, the term ''loaned'' in reference to tanks and references to the tax situs in subdivisions (c) and (d) shall not be factors in valuing the LPG tanks.

History: Adopted February 23, 2000, effective May 28, 2000.

Rule 171. BOARD-PRESCRIBED FORMS FOR PROPERTY STATEMENTS.

Reference: Sections 441, 441.5, 452, 469, Revenue and Taxation Code.

(a) CONTENT, ARRANGEMENT, AND APPROVAL OF PROPERTY STATEMENTS. Except as specifically authorized by the board with respect to heading, name and address of the taxpayer, location of the property, assessor's use columns, and the like, the assessor shall not change, add to, or delete the specific wording of property statement forms or mineral production report forms prescribed by the board or change the sequence of the questions, but he may otherwise arrange the content and alter the size and design of a property statement or mineral production report form to meet the needs of his office procedures and facilities. Annually, on or before October 15, the assessor shall notify the board, on a check list provided by the board, of those board-prescribed property statement and report forms, including instructions, which he will reproduce from the current prototype forms and instructions distributed by the board for use for the succeeding assessment year, those forms and instructions which he will produce by other means for use for that year, and those for which he will have no need. When filing the check list, he shall submit to the board in duplicate for approval a draft copy of each form, including instructions, which he will produce by means other than reproduction of the prototypes. If a draft copy does not conform with the specifications prescribed by the board, as required by Section 452 of the Revenue and Taxation Code, Section 15606 of the Government Code, and this rule, the assessor shall be notified in writing of the variances. He shall submit a revised draft within 30 days of the date of the notice. Not later than February 10, annually, the assessor shall submit to the board a printed copy of each property statement and mineral production report form and its accompanying instructions.

(b) ATTACHMENTS TO PROPERTY STATEMENTS. The assessor is not required to obtain board approval for instructions pertaining to the format of attachments that an assessee elects to furnish in lieu of entering the information on the prescribed property statement. However, such instructions shall include requirements that at least one copy of the property statement as printed by the assessor must be executed and contain appropriate references to the data on the attachment, and that all information required by the property statement must be furnished on the property statement or the attachments.

(c) TIME FOR FILING MINERAL PRODUCTION REPORTS. The assessor shall not require the filing of mineral production reports prior to April following the calendar year for which the report is prepared.

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(d) ASSESSOR TO FURNISH PROPERTY STATEMENTS. The pertinent property statement form and instructions shall be furnished by the assessor to every person required by law or requested by the assessor to file a property statement, and the pertinent report form shall be furnished by him to every person requested to file a mineral production report.

If a person had business personal property and fixtures subject to general property tax at a given location in the previous year whose assessment was based on a full cash value amounting to $200,000 or more and is not required to report such property on another of the board-prescribed forms, the assessor shall employ the long form of business property statement for any such person who is required to file a statement. If a person had personal property subject to general property tax at a given location in the previous year whose assessment was based on a full cash value of less than $200,000 and is not required to report such property on another of the board-prescribed forms, the assessor may employ either the long or the short form of business property statement for any such person who is required to file a statement. If a person had personal property subject to general property tax, whether business property or not, whose assessment at a given location in the previous year was based on a full cash value of less than $10,000 and is not required to report his property on another of the board-prescribed forms, the assessor may employ either the long or the short form of the business property statement or the miscellaneous property statement for any such person who is required to file a statement.

History: Adopted October 4, 1967, effective November 4, 1967.
Amended October 8, 1968, effective October 10, 1968.
Amended September 12, 1969, effective October 18, 1969.
Amended July 31, 1973, effective September 6, 1973.
Amended December 9, 1981, effective April 3, 1982.
Amended June 21, 1983, effective October 29, 1983.

Rule 172. EXECUTION OF PROPERTY STATEMENTS AND MINERAL PRODUCTION REPORTS.

Reference: Sections 441, 452, 463, Revenue and Taxation Code.

(a) Property statements and mineral production report forms prescribed by the board and filed with the assessor or the board shall be signed by the assessee, a partner, a duly appointed fiduciary, or an agent. When signed by an agent or employee other than a member of the bar, a certified public accountant, a public accountant, an enrolled agent, or a duly appointed fiduciary, the assessee's written authorization of the agent or employee to sign the statement on behalf of the assessee shall be filed with the assessor. For purposes of this section, ''enrolled agent'' means any person who is authorized, as of the date the statement or report is signed, to practice before the Internal Revenue Service as an enrolled agent. The assessor may at any time require a person who signs a property statement and who is required by this section to have written authorization to provide proof of his authorization.

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(b) In the case of a corporate assessee, the property statement and mineral production report shall be signed by an officer or by an employee or agent whom the board of directors has designated in writing (other than those excepted in (a) above), by name or by title, to sign such statements on behalf of the corporation. The board of directors may appoint a person or persons to designate such employee or agent. A record of the written authorization or the appointment and designation required by this subsection shall be retained by the assessee for a period of six years from the date of its execution.

(c) Property statements and mineral production reports, regardless of where executed, shall be declared to be true and correct and be signed under the penalty of perjury. Property statements and mineral production reports signed by an agent or other representative of the assessee shall include a declaration signed under the penalty of perjury which shall specify that the person signing is authorized to sign on behalf of the assessee.

(d) Neither the assessor nor the board shall knowingly accept any signed property statement or mineral production report that is not executed in accordance with the requirements of this section.

(e) A property statement or a mineral production report that is unsigned does not constitute a valid filing. The penalty imposed by section 463 of the Revenue and Taxation Code for failure to file shall be applicable to unsigned property statements.

History: Adopted February 8, 1968, effective March 14, 1968.
Amended January 23, 1970, effective February 22, 1970.
Amended January 6, 1971, effective February 18, 1971.
Amended December 15, 1971, effective January 19, 1972.
Amended May 11, 1994, effective June 10, 1994.

Rule 191. PROPERTY TAX AUDITS, GENERAL.

Reference: Section 469, Revenue and Taxation Code.

The purpose of the audit is to collect data relevant to the determination of taxability, situs, and value of property. When an audit is to be made, the assessor, his deputy, or his authorized agent shall inform the taxpayer and arrange for the time and place to begin the audit. Upon completion of the audit, the taxpayer shall be given the auditor's findings in writing with respect to data which would alter any previously enrolled assessment. The taxpayer shall be given an opportunity to make written and/or oral response thereto, and his written comments shall become part of the audit report.

After having considered the results of the audit, including discussions with and written comments of the taxpayer, the assessor shall inform the taxpayer of his conclusions as to the value of the property and may (1) cause an escape assessment

Rule 191. (Contd.)

to be made, (2) make an assessment subject to penalty, or (3) inform the taxpayer of his right to a cancellation of assessment or a refund of taxes.

History: Adopted June 21, 1967, effective July 23, 1967.

Rule 192. MANDATORY AUDITS.

Reference: Section 469, Revenue and Taxation Code.

(a) HOLDINGS EQUALING OR EXCEEDING THE MINIMUM IN FOUR CONSECUTIVE YEARS. When a taxpayer engaged in a profession, trade, or business owns, claims, possesses, or controls locally assessable fixtures and business tangible personal property in any county which according to the assessor's records, has a combined full value that equals or exceeds the amount specified by Section 469 of the Revenue and Taxation Code for each of the four consecutive lien dates, the assessor shall complete an audit of the taxpayer's books and records

(1) at least once within the four fiscal years following the first of such four consecutive lien dates, and

(2) at least once thereafter within each four-year period following the latest fiscal year covered by the preceding audit until relieved of this responsibility by subdivision (b) of this section.

Upon completion of an audit of the taxpayer's books and records, the taxpayer shall be given the assessor's findings in writing with respect to data that would alter any previously enrolled assessment.

(b) HOLDINGS FALLING BELOW THE MINIMUM. After such a taxpayer's holdings fall below the amount specified by Section 469 of the Revenue and Taxation Code on any one lien date, the assessor shall not be required to audit the taxpayer's books and records for that lien date and subsequent lien dates until the taxpayer's holdings again equal or exceed the amount specified by Section 469 of such code on four consecutive lien dates.

(c) FARMING. For purposes of this rule, farming is a business. The assessor, when making an audit pursuant to this section of a farming or ranching operation, shall determine whether any racehorses taxable to the same taxpayer pursuant to Part 12 of Division 1 of the Revenue and Taxation Code have been underreported or escaped assessment.

(d) DEFINITIONS. ''Holdings'' means the taxable value of locally assessable fixtures and the full cash value of locally assessable business personal property in the county. A ''fiscal year'' is the governmental fiscal year of July 1 through June 30. ''Fixtures'' means any fixtures whose use or purpose directly applies to or augments the process or function of a profession, trade, or business.

Rule 192. (Contd.)

(e) OTHER AUDITS. Nothing herein shall be construed to prohibit an assessor from auditing the books and records of any taxpayer or for any period for which audits are not required by paragraph (a).

History: Adopted April 10, 1968, effective May 12, 1968.
Amended January 8, 1969, effective February 12, 1969.
Amended December 12, 1969, effective January 11, 1970.
Amended March 24, 1971, effective April 25, 1971.
Amended October 18, 1973, effective November 25, 1973.
Amended December 15, 1976, effective January 21, 1977.
Amended July 31, 1980, effective November 19, 1980.
Amended July 27, 1982, effective February 10, 1983.
Amended and effective May 29, 1996.
Amended December 22, 1997, effective January 21, 1998.

Rule 193. SCOPE OF AUDIT.

Reference: Section 469, Revenue and Taxation Code.

(a) When auditing a taxpayer under the requirements of section 192, an assessor may audit for only one of the fiscal years within the period specified in section 532 of the Revenue and Taxation Code if no discrepancy or irregularity is found in the fiscal year selected for audit. When a discrepancy or irregularity is found in the fiscal year first selected for audit, the assessor shall audit the remaining fiscal years for which the statute of limitations has not run unless he documents in the audit report his conclusion both (1) that the discrepancy or irregularity in the fiscal year first selected is peculiar to that fiscal year and (2) that the discrepancy or irregularity did not permit the assessment of an escape under the provisions of sections 502, 503, 531.3 or 531.4 of the Revenue and Taxation Code.

(b) If property of a taxpayer who meets the requirements of section 192 is selected by the board as an assessment sample item as part of its assessment practices surveys, the assessor of the county surveyed may consider the audit findings of the board's Assessment Standards Division as the fulfillment of section 192 providing no discrepancy or irregularity exists between the findings and the corresponding property statement or report and providing he maintains a copy of such findings in his files. If the assessor determines that the findings disclose a discrepancy or irregularity between the taxpayer's books and records and the corresponding property statement or report, he shall ascertain the cause and audit all years within the statute of limitations applicable to escape assessments.

(c) Nothing herein shall be construed to prohibit an assessor from auditing or reauditing any or all statements or reports for which the statute of limitations has not run or to define the circumstances in which property that has escaped assessment can be added to the roll.

Rule 193. (Contd.)

History: Adopted April 10, 1968, effective May 12, 1968.
Amended December 12, 1969, effective January 11, 1970.
Amended October 10, 1984, effective February 15, 1985.

Rule 201. TAX SITUS OF AIR CARRIERS' AIRCRAFT COMPONENTS, REPAIR AND REPLACEMENT PARTS, AND SUPPLIES.

Reference: Article 6, Chapter 5, Part 2, Division 1, Revenue and Taxation Code.
Sections 443, 1019, Revenue and Taxation Code.

Aircraft components, repair and replacement parts, and supplies owned, claimed, possessed, controlled, or managed by an air carrier shall be assessed at the place where they are situated on the lien date. Items which have been moved temporarily to another location for processing or repair, such as radio equipment being serviced or an engine being overhauled, do not acquire another situs for taxation by reason of temporary removal from the place were they are habitually kept.

Components, parts, and supplies do not acquire more than one taxable situs, although individual items may be rotated between storage and operational use on various aircraft over a period of time.

History: Adopted February 9, 1967, effective February 14, 1967.
Amended January 8, 1969, effective February 12, 1969.

Rule 202. ALLOCATION OF AIRCRAFT OF CERTIFICATED AIR CARRIERS AND SCHEDULED AIR TAXI OPERATORS.

Reference: Sections 1150, 1151, 1152, 1153, 1154, 1155, 1156, Revenue and Taxation Code.
Section 15606, Government Code.

(a) AIR TAXIS. An aircraft whose owner on the lien date used it in scheduled air taxi service at any time during the representative period selected pursuant to subsection (f), or which has been purchased for scheduled air taxi service but not yet put into such service and not yet used in any other service, is assessable under sections 1150 to 1156 of the Revenue and Taxation Code and not under Part 10, Division 1, or under other situs provisions of Part 2, Division 1, of the Revenue and Taxation Code.

(b) SITUS. Aircraft of United States registry operated by certificated air carriers (within the meaning of section 1150 of the Revenue and Taxation Code) or scheduled air taxis (within the meaning of subdivisions (a) and (b) of section 1154 of the Revenue and Taxation Code) and flown in intrastate, interstate, or foreign commerce shall be deemed to be situated only in those taxing agencies (within the meaning of section 404 of the Revenue and Taxation Code) in which the aircraft normally make physical contact. The physical contact must be intentional rather than by accident or as the result of an emergency, and it must involve embarking or disembarking of crew, passengers, or freight.

Rule 202. (Contd.)

(1) Aircraft flying over the state without landing do not acquire situs for property tax purposes. Conversely, the situs of aircraft that depart from a taxing agency within the state, fly out of the state, and return to the same or another taxing agency within the state without landing outside the state is within the state's taxing jurisdiction throughout the flight.

(2) Situs for property tax purposes is not affected by the legal or commercial domicile of the operator of the aircraft, except that foreign-owned and -based aircraft operated solely in foreign commerce do not acquire a situs within the state for property tax purposes.

(c) ALLOCATION FORMULA. The allocation formula to be used by each assessor is composed of two factors: (1) ground and flight time and (2) aircraft arrivals and departures.

(1) The ground and flight time factor is the ratio of time allocable to an airport during a representative period to the total time during the representative period.

(A) Time allocable to an airport is the amount of time a certificated aircraft (or scheduled air taxi) is on the ground at the airport, plus the portion of incoming and outgoing flight time computed pursuant to subsection (d). In computing the time allocable to the airport, the following shall be excluded: (1) all ground and flight time prior to the aircraft's first entry into the revenue service of the air carrier in control of the aircraft on the current lien date; and (2) all ground time in excess of 168 hours during each period the aircraft spent 720 or more consecutive hours on the ground.

(B) Total time is the sum of the time allocable to the airport and the time allocable elsewhere during the representative period. In computing the total time, the following shall be excluded: (1) all ground and flight time prior to the aircraft's first entry into the revenue service of the air carrier in control of the aircraft on the current lien date. The ground and flight time factor shall be multiplied by 75 percent to obtain a weighted ground and flight time factor.

(2) The aircraft arrivals and departures factor is the ratio of the number of arrivals at and departures from an airport during a representative period to the total number of arrivals at and departures from all airports during the representative period. This factor shall be multiplied by 25 percent to obtain a weighted arrivals and departures factor.

(3) The weighted ground and flight time factor shall be added to the weighted arrivals and departures factor. The sum of the two weighted factors yields the allocation ratio to be applied to the full cash value of the aircraft to determine the full cash value allocable to the airport.

(d) ALLOCATION OF FLIGHT TIME. For aircraft flying from one California airport to another California airport, the flight time attributable to each airport is one-half the flight time between the airports. For aircraft arriving from an airport outside the state or leaving for an airport outside the state, the flight time from or to the state boundary shall be allocated to the California airport in which the aircraft first lands or last takes off, as the case may be. The flight time to the state

Rule 202. (Contd.)

boundary shall be computed as follows: (1) determine the mileage from the airport to the state boundary crossing point on a great circle flight to the first landing point outside the state; (2) divide this mileage by the total great circle mileage from the airport to the first landing point outside the state; (3) multiply this percentage by the total flight time from the airport to the first landing point outside the state. The same procedure shall be used for inbound flights from outside the state. To allow for differences in take-off, landing, and cruising speeds and for varying take-off and landing patterns, the time allocated to an airport shall not be less than five minutes for an incoming or an outgoing flight. In lieu of the actual flight time for a single flight, the average flight time between two ports, or between a port and the state line, for two or more flights of a single carrier or of more than one carrier shall be used when such an average is promulgated by the board unless the assessor has documented evidence which justifies departure from such average time.

(e) SOURCES OF ALLOCATION DATA. For scheduled operations, arrivals and departures and ground and flight time shall be derived from the carrier's operating schedules. For nonscheduled operations, including, but not limited to, overhaul, pilot training, charter, military contract flights, and standby services, ground and flight time and arrivals and departures shall be derived from the carrier's recorded operations.

(f) REPRESENTATIVE PERIOD. Annually, on or before December 20, the board shall consult with the assessors of the counties in which air carriers' aircraft normally make physical contact. On or before January 15, the board shall designate a representative period to be used by all assessors in assessing the aircraft of each carrier for the forthcoming fiscal year.

(g) APPLICATION OF ALLOCATION FORMULA. The aircraft of certificated air carriers and scheduled air taxi operators shall be segregated by type, and a separate allocation ratio shall be computed for each type which has established a taxable situs within the state, excluding those makes within a type which have not established a taxable situs within the state. Each allocation ratio shall then be applied to the total value of the carrier's aircraft of each type to which the allocation ratio applies, excluding those makes within a type which have not established a tax situs within the state. Annually, the types shall be designated by the board in the same manner and at the same time the representative period is designated. Examples of the types are as follows:

(1) Piston-powered

(2) Turboprop-powered

(3) Helicopter

(4) Turbojet and Turbofan powered

(A) Two engine

(B) Three engine

(C) Four engine

Rule 202. (Contd.)

(D) DC-8-60 series

(E) Two engine widebody

(F) Three engine widebody

(G) Four engine widebody

History: Adopted March 9, 1967, effective March 10, 1967.
Amended January 8, 1969, effective February 12, 1969.
Amended December 12, 1969, effective January 11, 1970.
Amended February 16, 1970, effective March 26, 1970.
Amended December 15, 1971, effective January 19, 1972.
Amended February 21, 1974, effective February 26, 1974.
Amended December 17, 1975, effective January 25, 1976.
Amended July 31, 1980, effective November 19, 1980.
Amended July 27, 1982, effective February 10, 1983.
Amended September 26, 1983, effective October 31, 1983.
Amended February 25, 1998, effective June 12, 1998.

Rule 203. PROPERTY IN TRANSIT.

Reference: Article XIII, Section 14, California Constitution.
Section 1019, Revenue and Taxation Code.

(a) Property moving in interstate or foreign commerce, whether entering or leaving the state, are not subject to tax while in transit.

Property moving in intrastate commerce on the lien date are taxable and have situs for that purpose as follows:

(1) Property being transported by an owner from one location to another has situs at the point of origin of the shipment regardless of the mode of transportation or the ownership of the means of conveyance.

(2) Property being transported to a buyer has situs at its point of destination unless the buyer demonstrates to the satisfaction of the assessor that the seller had title until delivery. Pursuant to the Uniform Commercial Code, f.o.b. designations, unless otherwise agreed between a seller and buyer, are delivery terms. Title to property remains with a seller until he has completed delivery by making the property available for disposition by the buyer at the f.o.b. point. Retention of a security interest by a seller shall be disregarded for purposes of determining situs.

Property is in transit as part of interstate or intrastate commerce, as the case may be, when it has been delivered to a carrier or, if delivery to destination is being made by the owner of the property, when he has actually started transporting the property to its destination. Transportation terminates when the property reaches its destination and is made available for disposition by the consignee of the shipment.

The interruption of transportation for purposes incident to transportation does not remove property from its in-transit status. The interruption of transportation for the

Rule 203. (Contd.)

business purpose or profit of the owner terminates the transportation and creates a situs for taxation at the place where the property is situated on the lien date.

Thus, property remains in transit if the interruption is caused by a breakdown in the transportation system or equipment, the promotion of safe or convenient transit, or the accumulation by the carrier of sufficient cargo to make a load.

History: Adopted February 7, 1968, effective March 14, 1968.
Amended July 27, 1982, effective February 17, 1983.

Rule 204. LEASED PROPERTY.

Reference: Article XIII, Section 14, California Constitution.
Section 1019, Revenue and Taxation Code.

(a) Property leased or rented on a daily, weekly or other short-term basis has situs at the place where the lessor normally keeps the property. Temporary absences from that location do not change the situs of the property.

(b) The situs of property leased or rented for an extended, but unspecified, period or leased for a term of more than six months shall be determined on the basis of the lessee's use.

(c) The assessor may place a single assessment on the roll for all leased personal property in the county that is assessed to the same taxpayer. Any property assessed pursuant to this subdivision shall, in the absence of evidence establishing otherwise, be deemed to be located at the taxpayer's primary place of business within the county.

History: Adopted February 7, 1968, effective March 14, 1968.
Amended July 27, 1982, effective February 17, 1983.
Amended December 11, 1997, effective January 10, 1998.

Rule 205. MOVABLE PROPERTY.

Reference: Article XIII, Section 14, California Constitution.

(a) GENERAL. Movable property is all property which is intended to be, and is, moved from time to time from one location to another. Such property may be in-transit, or leased, and under such circumstances its situs is to be determined by reference to section 203 or 204 of this chapter.

Movable property has situs where located on the lien date if it has been in the county for more than 6 of the 12 months immediately preceding the lien date and if it is to remain in or be returned to the county for any substantial period during the 12 months

Rule 205. (Contd.)

immediately succeeding the lien date. Property which has been in the county for less than 6 of the 12 months immediately preceding the lien date, but which is committed to use in the county for an indeterminate period or for more than six months, has situs there whether the use extends through or commences with the lien date.

Property which does not have situs where located on the lien date pursuant to the previous paragraph has situs at the location where it is normally returned between uses or, if there is no such location, at the principal place of business of the owner.

(b) GENERAL AIRCRAFT. Aircraft other than those subject to Revenue and Taxation Code sections 1150 to 1155 have situs for taxation purposes at the airport in which they are habitually situated when not in flight. An aircraft that spends a substantial amount of ground time at each of two or more airports has its tax situs at the airport where it spends the greatest amount of ground time.

(c) This section does not apply to boats or racehorses.

History: Adopted February 7, 1968, effective March 14, 1968.
Amended February 24, 1969, effective March 30, 1969.
Amended July 31, 1980, effective November 19, 1980.
Amended July 27, 1982, effective February 17, 1983.

Rule 206. ASSESSMENT OF ARTIFICIAL SATELLITES

Authority: Section 15606, Government Code.

Reference: Article XIII, section 14, California Constitution.
Section 201, Revenue and Taxation Code.

An artificial satellite permanently located in outer space does not have a tax situs in this state.

History: Adopted September 26, 2001, effective January 1, 2002. Adopted to clarify that artificial satellites permanently located in outer space do not have a tax situs in this state for purposes of the property tax.

Rule 252. CONTENT OF ASSESSMENT ROLL.

Authority: Section 15606, Government Code.

Reference: Sections 75.30, 75.31, 109, 109.5, 109.6, 601, 602, 618, 619, 1612, 1614, 1646, 2152, 2188.2, 2190, 2190.2 and 2601, Revenue and Taxation Code.

(a) MINIMUM CONTENTS OF "MACHINE-PREPARED" OR "ELECTRONIC" LOCAL ROLLS. ''Machine-prepared'' roll within the meaning of Revenue and Taxation Code Section 109.5 includes any preparation of

Rule 252. (Contd.)

the local roll by the assessor of each county by an electronic medium. In accordance with Revenue and Taxation Code Section 601 et seq., each local assessment roll shall contain, at a minimum, the following information:

(1) The name of the county.

(2) Either the calendar year in which the roll is prepared or the fiscal year for which the taxes are levied.

(3) An explanation of abbreviations and legends appearing on the roll.

(4) On the secured roll, the assessor's parcel number or other legal description that identifies each parcel of taxable land, each parcel for which an exemption is enrolled, and each taxable possessory interest in tax-exempt real estate to which the exemption authorized by Section 218 of the Revenue and Taxation Code has been applied. The assessment of the taxable possessory interest shall not be a lien on the tax-exempt real estate and that fact shall be noted on the secured roll.

(5) On the unsecured portion of the roll, the assessor's parcel number or other legal description that sufficiently identifies the location of each taxable possessory interest, improvement, and personal property.

(6) The name of the assessee, if known.

(7) The latest mailing address (not an e-mail address) of the assessee contained in the assessor's records.

(8) The separately stated assessed values of all land, improvements, and personal property subject to taxation at general property tax rates (or payments in lieu of property tax computed by applying general property tax rates to fixed or variable ''assessed values''), and the separately assessed values of any privately owned land, improvements, and personal property of a type that is exempt from taxation, but is subject to ad valorem special assessments when within a district levying such assessments. If real property is situated within a resource conservation district that is levying a special assessment, the assessed value of mineral rights must be separated from the land value.

(9) The tax rate area in which each piece of property assessed is situated.

(10) The penalties imposed upon such assessments, in the form required by section 261, Title 18 (Rule 261) of this code.

(11) The assessed value of any property that escaped assessment in a prior year, together with the notation required by section 533 of the Revenue and Taxation Code.

(12) The exempt amount of any assessed values required by paragraph (a)(9) to be enrolled, with identifying legends or distinctive positions for amounts allowed pursuant to the inventory exemption, the homeowner's exemption, and any other reimbursable exemptions.

(13) The total net taxable value.

Rule 252. (Contd.)

(14) In a separate section of the roll, the assessed value of any personal property for which tax revenues are subject to allocation in a manner different from that provided for general property tax revenues (e.g. general aircraft).

(15) On the secured roll, a cross-reference notation made pursuant to Revenue and Taxation Code section 2190.2 that is adjacent to the assessment of any taxable land when a possessory interest in such land or an improvement thereon is separately assessed to another owner pursuant to section 2188.2 of the Revenue and Taxation Code.

(16) Whenever the assessor determines that a change in ownership or the completion of new construction has occurred, the assessor shall place a notice of the pending supplemental billing on the roll being prepared and shall notify the auditor, who shall place a notation on the current roll or on a separate document accompanying the current roll that a supplemental billing may be forthcoming.

(17) After each assessment of tax-defaulted property, the assessor shall enter on the roll the fact that it is tax-defaulted and the date of declaration of the default.

(18) Any other items required by the State Board of Equalization for the purpose of identification and valuation of all locally assessed property and the collection of property taxes thereon.

(b) EXEMPT VALUES NOT REQUIRED TO BE ENROLLED. Parcel numbers or other legal descriptions of exempt real property may be entered on the roll without values. Alternatively, such exempt real property may be listed with values shown in a separate column or field (e.g., a comments field) or in the exemption column or field on lines that are coded in such manner as to preclude the addition of the values when the exemption column or field is totaled; the exempt values shall not be shown in land or improvement columns or fields.

(c) CONTENT OF EXTENDED ROLL. The extended assessment roll or new local assessment roll for the extension of taxes prepared by the county auditor shall contain, in addition to all of the contents required by subsection (a) of this rule at least the following:

(1) The mailing address, if known, of the assessee.

(2) The revenue district for each group if assessments are grouped by revenue district, and for each assessment if assessments are not so grouped.

(3) All tax rates and ad valorem special assessment extensions required by law.

(4) The amount of tax to be paid on the property listed. The amounts due in installments shall be stated separately and shall be totaled. All rates applicable to any assessment may be combined into a single figure for purposes of computation and extension of the roll.

Rule 252. (Contd.)

(5) At the beginning of the roll, or at the beginning of each tax-rate area grouping on the roll, a list of all revenue districts levying taxes within each tax-rate area in the county.

(6) An identification of each tax-defaulted property sold, with the date of sale.

(d) MINIMUM CONTENTS OF LOCAL ROLLS NOT "MACHINE-PREPARED".

(1) The local roll of each county utilizing a roll that is not ''machine-prepared'' within the meaning of Revenue and Taxation Code Section 109.5 shall have the contents specified in subsections (a) and (c) of this rule.

(2) The secured assessments shall be arranged in ascending parcel number order within tax-rate area groupings, with unparcelled properties at the end of each tax-rate area group if there are both parcelled and unparcelled properties in the tax-rate area.

(e) APPROVAL OF ROLL FORMS.

(1) Whenever the local assessment roll is to be prepared in a form other than that previously approved by the board, the assessor shall submit to the board for approval in duplicate by January 1 the forms to be used for the succeeding fiscal year.

(2) Forms to be submitted include, but are not limited to, the following:

A. Secured roll prepared by the assessor.
B. Secured roll alphabetical index.
C. Unsecured roll prepared by the assessor.
D. Unsecured roll alphabetical index.
E. Notice of assessment.
F. Notice of supplemental assessment.
G. Notice of escape assessment.
H. Notice of proposed escape assessment.

(3) When submitted for approval, each roll form listed in (2) shall be filled out with examples sufficient to illustrate its completed appearance, except that totals and summaries need not be shown.

(f) Nothing in this regulation is meant to alter the intent of Section 109.6 of the Revenue and Taxation Code.

History: Adopted September 1, 1967, effective October 7, 1967.
Amended November 20, 1968, effective November 21, 1968.
Amended July 8, 1971, effective August 19, 1971.
Amended July 31, 1973, effective September 6, 1973.
Amended February 5, 1975, effective March 20, 1975.
Amended September 11, 1985, effective December 15, 1985.
Amended March 27, 2002, effective July 11, 2002. Amended rule to update assessment roll procedures and to conform the contents to the items required by statute. Additionally, the amendments provide appropriate guidance consistent with current processing and record-keeping technology.

Rule 254. USE OF BOARD-PREPARED ROLL AS UNEXTENDED ROLL.

Authority: Section 15606, Government Code.

Reference: Sections 109, 109.5, 618, 1612, 1614, 1646, 2152, 2601, Revenue and Taxation Code.

Any county utilizing a machine-prepared roll whose county auditor prepares a new assessment roll on which to extend taxes may use the roll prepared by the state board for state-assessed properties as the unextended assessment roll. In such case, the assessments of state-assessed properties shall be kept in a separate section or sections of the extended roll, and the values shall be separately totaled. Prior to delivery of the extended roll to the tax collector the auditor shall affix to the section or sections of the extended roll containing state-assessed property an affidavit subscribed by him or her as follows:

> "I, ____, Auditor of ____ County, swear that the attached roll is a reproduction of the assessments of state-assessed properties in this county as prepared and corrected by the State Board of Equalization, together with the extensions required by law."

Nothing in this regulation is meant to alter the intent of section 109.6 of the Revenue and Taxation Code.

History: Adopted September 1, 1967, effective October 7, 1967.
Amended March 27, 2002, effective July 11, 2002. The amendments conform the terminology to current processing and record-keeping technology.

Rule 255. ENROLLMENT OF SUPPLEMENTAL ASSESSMENTS.

Authority: Section 15606, Government Code.

Reference: Sections 75.7, 75.11, 75.21, 75.40, 75.41, 75.42, Revenue and Taxation Code.

(a) When the period for claiming exemption has expired, and any exemptions have been processed, the assessor shall transmit the supplemental assessment and the following information to the auditor:

(1) Name and address, if known, of the assessee.

(2) The parcel number or legal description of the property.

(3) The tax rate area in which the property is located.

(4) The new base year value of the property with the value for the land separated from the value for improvements.

(5) The value of the property on the current roll, or the roll being prepared, or both.

(6) The exemption applicable, if any.

Rule 255. (Contd.)

(7) The net supplemental assessment after exemption, or the values required for the auditor to calculate and bill the supplemental value.

(8) The date of the change in ownership or completion of new construction.

(b) The auditor shall apply the current year's tax rate, as defined in Section 75.4 of the Revenue and Taxation Code, to the supplemental assessment or assessments, computing the amount of taxes that would be due for a full year. If the tax rate for the ''roll being prepared'' is known, the rate may be used with respect to the fiscal year to which it applies, rather than the current year's tax rate as defined in Section 75.4. If the tax rate for the ''roll being prepared'' is not known, the current year's tax rate as defined in Section 75.4 shall be used. For property on the supplemental roll, the taxes due shall be computed in two equal installments.

(c) The taxes due shall be adjusted by a proration factor as set forth in Section 75.41 of the Revenue and Taxation Code to reflect the portion of the tax year remaining as determined by the date on which the change in ownership occurred or the new construction was completed. In computing the portion of the tax year remaining, the change in ownership or completion of new construction shall be presumed to have occurred on the first day of the month following the date on which change in ownership or completion of new construction occurred.

(d) After computing the supplemental taxes due, if the total is twenty dollars ($20) or less, the auditor may cancel the amount as provided by Section 4986.8 of the Revenue and Taxation Code.

(e) If the supplemental assessment is a negative amount, the auditor shall follow the procedures of section 75.41 of the Revenue and Taxation Code to determine the amount of refund to which the assessee may be entitled.

(f) No supplemental assessment authorized by this regulation shall be valid, or have any force or effect, unless it is placed on the supplemental roll on or before the applicable date specified in Revenue and Taxation Code section 75.11.

(g) No limitations period specified in Revenue and Taxation Code section 75.11 shall commence unless the filing or transmittal specified in the relevant paragraph has been completed.

(h) If, before the expiration of the applicable period specified in subdivision (f) for making a supplemental assessment, the taxpayer and the assessor agree in writing to extend the period for making a supplemental assessment, correction, or claim for refund, a supplemental assessment may be made at any time prior to the expiration of that extended period. The extended period may be further extended by successive written agreements entered into prior to the expiration of the most recent extension.

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History: Adopted March 27, 2002, effective July 11, 2002. The adopted rule is necessary to specify the required items of information and procedures for enrollment of supplemental assessments, to direct auditors, as to the manner in which to apply the current year's tax rate and the proration adjustment of the taxes due, and to provide for the limitations periods for making supplemental assessments.

Rule 261. PENALTIES; FORM AND MANNER OF ENTRY.

Authority: Section 15606, Government Code.

Reference: Sections 482, 505, 533, 602, 615, Revenue and Taxation Code.

(a) A penalty imposed under Sections 463, 503 or 504 of the Revenue and Taxation Code shall be entered on the local roll in any one of the following forms:

(1) By adding 10 percent or 25 percent or the percentage or maximum allowable dollar amount prescribed by statute, as the case may be, to the assessed value of each class of property to which the penalty is applicable and referencing the values so increased to footnotes or entries in the comment field which read: ''Includes __% penalty or the maximum allowable dollar amount penalty added pursuant to Sec. ____, R & T Code,'' or words substantially to this effect.

(2) By inserting the amount to be added to the assessed value of each class of property and identifying the penalty by an entry which reads: ''Penalty added pursuant to Sec. ____, R & T Code,'' or words substantially to this effect.

(3) By entering the amount to be added to the assessed value of each class of property in another part of the roll, together with the name and address of the assessee, the tax-rate area code, the words ''Penalty added pursuant to Sec. _____, R & T Code'' or words substantially to this effect, and a cross reference to the place on the roll at which the assessed values are entered. When this manner of enrolling penalties is chosen, the assessed value entries shall be cross-referenced to the penalty entries.

(b) A penalty imposed under sections 75.12, 480, 480.1, 480.2, 480.7, and 482 of the Revenue and Taxation Code shall be added to the roll in the same manner as a special assessment and treated, collected, and subject to the same penalties for the delinquency as all other taxes on the roll in which it is entered.

History: Adopted December 12, 1967, effective December 19, 1967.
Amended March 27, 1968, effective March 28, 1968.
Amended March 27, 2002, effective July 11, 2002. The amendment conforms the rule to statutory requirements for penalties, update the manner of electronically processing penalty entries, and prescribes procedures for enrollment of penalties.

Rule 263. ROLL CORRECTIONS.

Authority: Section 15606, Government Code.

Reference: Sections 4831, 4831.5, 4834, 4835, 4836, 4838 and 4840, Revenue and Taxation Code.

(a) Any error or omission not involving the exercise of value judgment which results in an incorrect entry or entries on the roll may be corrected after the roll is delivered to the auditor, provided that the correction is made within four years after the making of the assessment that is being corrected.

(1) If an error or omission not involving the exercise of value judgment is discovered as the result of an audit of a taxpayer's books and records, that error or omission may be corrected at any time prior to the expiration of six months after the completion of the audit.

(b) Any error or omission involving the exercise of value judgment that arises solely from a failure to reflect a decline in the taxable value of real property as required by paragraph (2) of subdivision (a) of Revenue and Taxation Code section 51 shall be corrected within one year after the making of the assessment that is being corrected.

(c) Any incorrect entry on the roll resulting from a defect of description or clerical error, as determined by the assessor upon audit, made by the assessee in the property statement or in other information or records which causes the assessor to assess taxable tangible property which was not subject to assessment or to assess taxable tangible property at a substantially higher value may be corrected under this article. The correction shall be made after the roll is delivered to the auditor within the time period for making escape assessments as provided in sections 532 and 532.1. The change to be made on the roll shall be certified to the auditor by the assessor.

(d) If a correction will increase the amount of unpaid taxes, the assessor shall notify the assessee of the procedure for obtaining review by the county board under section 1605 and the procedure for applying for cancellation under section 4986.

(e) If a correction will decrease the amount of unpaid taxes, the consent of the board of supervisors is necessary to make the correction.

(f) Corrections authorized under this rule shall be made by the auditor upon delivery of the relevant information by the assessor.

(g) The provisions of this rule do not apply to escape assessments caused by the assessee's failure to report the information required by Article 2 (commencing with Section 441) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code, and roll corrections are not a prerequisite for escape assessments or base year value corrections.

(h) If the roll of any taxing agency in the course of preparation is lost or destroyed because of public calamity and is reconstructed from available data, at any time before the declaration of default, the assessor may correct any erroneous assessment. The assessor shall:

Rule 263. (Contd.)

(1) Send certified notices of the correction to the tax collector, the auditor, and the Controller.

(2) Enter the date and nature of the correction with reference to the property for which the correction is being made

(i) On receipt of satisfactory, verified, written evidence that taxes have been entered on the secured roll as a lien on real property on which they are not legally a lien, the assessor shall transmit the evidence and his or her cancellation to the auditor. On direction of the board of supervisors, the auditor shall cancel the entry as a lien on that real property and reenter such taxes as follows:

(1) If the assessee has real property sufficient, in the assessor's opinion, to secure the payment of the taxes, as a lien on real property.

(2) Where there is not sufficient real property to secure the taxes on locally-assessed property, the taxes shall be placed on the unsecured roll. In the case of state-assessed property, the taxes shall be placed on the secured roll.

History: Adopted March 27, 2002, effective July 11, 2002. Adoption of the rule provides authority for roll corrections and requires assessors to follow specified procedures for corrections to the roll.

Rule 264. BASE YEAR VALUE CORRECTIONS.

Authority: Section 15606, Government Code.

Reference: Section 51.5, Revenue and Taxation Code.

(a) Notwithstanding any other provision of the law, any error or omission in the determination of a base year value pursuant to paragraph (2) of subdivision (a) of Section 110.1 of the Revenue and Taxation Code, including the failure to establish that base year value or the determination of a change in ownership, which does not involve the exercise of an assessor's judgment as to value, shall be corrected in any assessment year in which the error or omission is discovered.

(1) The existence of a clerical error shall be proved by a preponderance of the evidence, except that if the correction is made more than four years after July 1 of the assessment year for which the base year value was first established, the clerical error shall be proved by clear and convincing evidence, including the papers in the assessor's office.

(b) An error or an omission described in subdivision (a) which involves the exercise of an assessor's judgment as to value may be corrected only if it is placed on the current roll or roll being prepared, or is otherwise corrected, within four years after July 1 of the assessment year for which the base year value was first established. ''The assessment year for which the base year value was first established'' means the assessment year during which the assessor actually enrolls the new base year value

Rule 264. (Contd.)

resulting from a change in ownership or completion of new construction. An error or an omission involving the exercise of an assessor's judgment as to value shall not include errors or omissions resulting from the taxpayer's fraud, concealment, misrepresentation, or failure to comply with any provision of law for furnishing information required by Sections 441, 470, 480, 480.1, and 480.2 of the Revenue and Taxation Code, or from clerical errors.

(c) If a correction authorized by subdivision (a) or (b) reduces the base year value, the assessor shall transmit the correction to the auditor by means of a notation on the roll and appropriate cancellations or refunds of tax shall be granted in accordance with Division 1, Part 9 of the Revenue and Taxation Code. If the correction increases the base year value, the assessor shall transmit the information regarding the correction to the auditor by means of a notation on the roll and appropriate escape assessments shall be imposed in accordance with Division 1, Part 2, Chapter 3, Article 4 of the Revenue and Taxation Code.

(d) For purposes of this rule:

(1) ''Assessment year'' means an assessment year as defined in Section 118.

(2) ''Clerical errors'' means only those defects of a mechanical, mathematical, or clerical nature, not involving judgment as to value, where it can be shown from papers in the assessor's office or other evidence that the defect resulted in a base year value that was not intended by the assessor at the time it was determined.

History: Adopted March 27, 2002, effective July 11, 2002. Adoption of the rule provides authority for base year value corrections and requires assessors to follow specified procedures for base year value corrections.

Rule 265. BOARD ORDERED ROLL CHANGES.

Authority: Section 15606, Government Code.

Reference: Sections 1614 and 1646.1, Revenue and Taxation Code.

On the second Monday of each month the clerk of the board of equalization shall deliver the statement of all changes made by the county board during the preceding calendar month to the auditor with an affixed affidavit, subscribed by him or her, as follows:

> ''I, (clerk's name), swear that, as Clerk of the Board of Equalization of County, I have kept correct minutes of all the acts of the board during the month of _____ , _____ , touching alterations in the assessment roll, that all alterations agreed to or directed to be made have been included in the attached statement and that no other alterations are included therein.''

Upon receiving a statement of changes from the clerk, the auditor shall promptly correct the roll to reflect the changes made by the county board.

Rule 265. (Contd.)

History: Adopted March 27, 2002, effective July 11, 2002. The adoption of the rule implements the Revenue and Taxation Code requirement that the clerk of the assessment appeals board or county board of equalization transmit roll changes made by the county board.

Rule 266. LOCATION OF LOCAL ROLL FOR INSPECTION.

Authority: Section 15606, Government Code.

Reference: Section 1602, Revenue and Taxation Code.

The local roll or a copy thereof shall be made available for inspection by all interested parties during regular office hours of the officer having custody thereof. Copies may be made available for inspection at other places for the convenience of the public.

History: Adopted May 11, 1967, effective June 11, 1967.
Renumbered March 27, 2002, effective July 11, 2002. Formerly Property Tax Rule 304.

Rule 281. ''APPRAISER'' DEFINED.

Reference: Sections 670, 673, Revenue and Taxation Code.

An appraiser for property tax purposes within the meaning of section 670 of the Revenue and Taxation Code is an employee of the state, a county, or a city and county who renders value judgments in the administration of the valuation phase of ad valorem property taxation under Article XIII, sections 1, 2, 9, 14, 17, 18, 19 and 24 of the California Constitution. ''Appraiser'' includes persons who make building classification judgments for cost estimating purposes and auditors or auditor-appraisers who render market value judgments. It does not include elected officials.

History: Adopted April 10, 1968, effective May 12, 1968.
Amended December 17, 1975, effective January 25, 1976.

Rule 282. TEMPORARY CERTIFICATION.

Reference: Section 24002.5, Government Code, and Sections 670, 673, Revenue and Taxation Code.

(a) A person shall not perform the duties of an appraiser, as defined in section 281, unless the person has been issued a temporary or permanent certificate by the Board, nor shall the person continue to perform such duties for more than a year (excluding any break in service as an appraiser of less than six months which is reported to the Board) without having been permanently certified.

Rule 282. (Contd.)

(b) The Board shall issue a temporary certificate to any other person employed to perform the duties of an appraiser for property tax purposes in the service of a county or city and county if the person meets the minimum qualifications set out in section 283(a) or has equivalent qualifications which, in the opinion of both the assessor and the Board, demonstrate that the person is competent to perform the work of an appraiser. The assessor shall submit such qualifications to the Board on a form supplied by the Board.

(c) Within 30 days of election or appointment, upon request, the Board shall issue a temporary certificate to any person who has been elected or appointed as assessor.

(d) A temporary certificate is suspended when the person to whom it was issued ceases to perform the duties of an appraiser for property tax purposes but is automatically reinstated when the person again performs such duties with less than a six months' break in service. When there is a break in service of six months or more, another temporary certificate must be issued, under the provisions of subsection (b), and such certificate shall be valid for one year thereafter.

History: Adopted April 10, 1968, effective May 12, 1968.
Amended December 17, 1975, effective January 25, 1976.
Amended August 15, 1984, effective February 13, 1985.
Amended February 4, 1997, effective July 6, 1997.

Rule 283. PERMANENT CERTIFICATION.

Reference: Sections 670, 673, Revenue and Taxation Code.

(a) The Board shall issue a permanent certificate to any person employed to perform the duties of an appraiser for property tax purposes in the state service or in the service of a county or city and county who, within one year of employment, attains a passing grade in an examination prepared or approved by the Board and who meets the following minimum qualifications:

(1) The person is currently employed by, or has a bona fide employment offer from, the Board, a county assessor or city and county assessor, or a county appraisal commission, and

(2) Either the person is a graduate of an accredited four-year institution of higher education, or

(3) The person has graduated from high school (or has the equivalent of a high school education as determined by the taking of a general educational development test administered by an official general educational development center approved by the Bureau of Readjustment Education of the California Department of Education) and has four years of relevant experience. "Relevant experience" means employment experience within the last ten years in any of the following occupations:

Rule 283. (Contd.)

(A) an accountant, auditor, real property appraiser, building cost estimator, engineer, or

(B) a real estate licensee, licensed by the California Department of Real Estate, engaged in buying, selling, leasing, or managing real estate, or

(C) an appraiser aide or appraiser trainee in an assessor's office or in the property taxes department of the Board, or

(D) an employee, other than an appraiser, of an assessor's office or of the property taxes department of the Board, except that only ⅔ of such employment time shall be deemed qualifying employment experience.

Four years of relevant experience or any combination of four years of relevant experience and of education in an accredited institution of higher education can be substituted for the educational requirement in subsection (a)(2). When fewer than four years of education in an accredited institution of higher education are used to meet the minimal qualifications, the number of qualifying years or fractions thereof shall be determined by the number of units in which passing grades were received. The qualifications of the person seeking permanent certification in this manner shall be submitted on a form supplied by the Board when the person files the application.

(b) When a person has been temporarily certified under subsection (b) of Section 282 by reason of equivalent qualifications, or under subsection (c) of Section 282 by reason of election or appointment as assessor the person shall be admitted to the examination referred to in subsection (a). Upon receiving a passing grade in the examination, the person shall be issued a permanent certificate by the Board.

(c) A permanent certificate is suspended when the person to whom it was issued terminates employment by the Board, by a county assessor or city and county assessor, or by a county reappraisal commission, but it is automatically reinstated when the person is again employed to perform the duties of an appraiser for property tax purposes in the state service or in the service of any county or city and county.

History: Adopted April 10, 1968, effective May 12, 1968.
Amended January 7, 1970, effective February 8, 1970.
Amended December 15, 1971, effective January 19, 1972.
Amended August 15, 1984, effective February 13, 1985.
Amended February 4, 1997, effective July 6, 1997.

Rule 301. DEFINITIONS AND GENERAL PROVISIONS.

Reference: Sections 110, 110.1, 110.5, 1601, 1603 et seq., Revenue and Taxation Code. Section 31000.6, Government Code.

The provisions set forth in this regulation govern the construction of this subchapter.

(a) ''County'' is the county or city and county wherein the property is located that is the subject of the proceedings under this subchapter.

(b) ''Assessor'' is the assessor of the county.

(c) ''Auditor'' is the auditor of the county.

(d) ''Board'' is the board of equalization or assessment appeals board of the county.

(e) ''Chair'' is the chair of the county board of equalization or assessment appeals board.

(f) ''Clerk'' is the clerk of the county board of equalization or assessment appeals board.

(g) ''Person affected'' or ''party affected'' is any person or entity having a direct economic interest in the payment of property taxes on the property for the valuation date that is the subject of the proceedings under this subchapter, including the property owner, a lessee required by the property lease to pay the property taxes, and a property owner who acquires an ownership interest after the lien date if the new owner is also responsible for payment of property taxes for the lien date that is the subject of the application.

(h) ''Full cash value'' or ''fair market value'' is the value provided in sections 110 and 110.1 of the Revenue and Taxation Code.

(i) ''Restricted value'' is a value standard other than full cash value prescribed by the Constitution or by statute authorized by the Constitution.

(j) ''Full value'' is either the full cash value or the restricted value.

(k) ''Equalization'' is the determination by the board of the correct full value for the property that is the subject of the hearing.

(*l*) ''County legal advisor'' is the county counsel of the county, or the district attorney of the county if there is no county counsel, and the City Attorney of the City and County of San Francisco, or outside counsel specifically retained to advise the county board of equalization or assessment appeals board.

(m) ''Authorized agent'' is one who is directly authorized by the applicant to represent the applicant in an assessment appeals proceeding.

Rule 301. (Contd.)

History: Adopted May 11, 1967, effective June 11, 1967.
Amended July 27, 1982, effective December 30, 1982.
Amended January 5, 2000, effective April 22, 2000.

Rule 302. THE BOARD'S FUNCTION AND JURISDICTION.

Reference: Sections 531.1, 1603, 1604, 1605.5, 1613, Revenue and Taxation Code.

(a) The functions of the board are:

(1) To lower, sustain, or increase upon application, or to increase after giving notice when no application has been filed, individual assessments in order to equalize assessments on the local tax assessment roll,

(2) To determine the full value and, where appealed, the base year value of the property that is the subject of the hearing,

(3) To hear and decide penalty assessments, and to review, equalize and adjust escaped assessments on that roll except escaped assessments made pursuant to Revenue and Taxation Code section 531.1,

(4) To determine the classification of the property that is the subject of the hearing, including classifications within the general classifications of real property, improvements, and personal property. Such classifications may result in the property so classified being exempt from property taxation.

(5) To determine the allocation of value to property that is the subject of the hearing, and

(6) To exercise the powers specified in sections 1605.5 and 1613 of the Revenue and Taxation Code.

(b) Except as provided in subdivision (a)(4), the board has no jurisdiction to grant or deny exemptions or to consider allegations that claims for exemption from property taxes have been improperly denied.

(c) The board acts in a quasi-judicial capacity and renders its decision only on the basis of proper evidence presented at the hearing.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended May 21, 1968, effective June 26, 1968.
Amended June 4, 1969, effective June 6, 1969.
Amended May 5, 1971, effective June 10, 1971.
Amended December 17, 1975, effective January 25, 1976.
Amended January 6, 2000, effective April 22, 2000.

Rule 305. APPLICATION.

Reference: Sections 51, 166, 408.1, 1603, 1605, Revenue and Taxation Code. Section 25105.5, Government Code.

No change in an assessment sought by a person affected shall be made unless the following application procedure is followed.

(a) ELIGIBLE PERSONS.

(1) An application is filed by a person affected or the person's agent, or a relative mentioned in regulation 317 of this subchapter. If the application is made by an agent, other than an authorized attorney licensed to practice in this state who has been retained and authorized by the applicant to file the application, written authorization to so act must be filed with the application. For purposes of signing an application on behalf of an applicant, an agent shall be deemed to have been duly authorized if the applicant's written agent authorization is on the application or attached to each application at the time it is filed with the board. The attached authorization shall include the following:

(A) The date the authorization statement is executed;

(B) A statement to the effect that the agent is authorized to sign and file applications in the specific calendar year in which the application is filed;

(C) The specific parcel(s) or assessment(s) covered by the authorization, or a statement that the agent is authorized to represent the applicant on all parcels and assessments located in the specific county;

(D) The name, address, and telephone number of the specific agent who is authorized to represent the applicant; and

(E) The applicant's signature and title;

(F) A statement that the agent will provide the applicant with a copy of the application.

(2) If a photocopy of the original authorization is attached to the application, the agent shall be prepared to submit an original signed authorization if requested by the board. The application form shall show that the agent's authorization was attached to the application. An agent must have authorization to file an application at the time the application is filed; retroactive authorizations are not permitted.

(3) If the applicant is a corporation, limited partnership, or a limited liability company, the agent authorization must be signed by an officer or authorized employee of the business entity.

(4) No application shall be rejected as a duplicate application by the clerk unless it qualifies as a duplicate application within the meaning specified in section 1603.5 of the Revenue and Taxation Code.

(b) SIGNATURE AND VERIFICATION. The application shall be in writing and signed by the applicant or the applicant's agent with declaration under penalty of perjury that the statements made in the application are true and that the person signing the application is one of the following:

Rule 305. (Contd.)

(1) The person affected, a relative mentioned in regulation 317 of this division, an officer of a corporation, or an employee of a corporation who has been designated in writing by the board of directors or corporate officer to represent the corporation on property tax matters;

(2) An agent authorized by the applicant as indicated in the agent's authorization portion of the application; or

(3) An attorney licensed to practice law in this state who has been retained by the applicant and who has been authorized by the applicant, prior to the time the application is filed, to file the application.

(c) FORMS AND CONTENTS. The county shall provide, free of charge, forms on which applications are to be made.

(1) The application form shall be prescribed by the State Board of Equalization and shall require that the applicant provide the following information:

(A) The name and address of the applicant.

(B) The name and address of the applicant's agent, if any. If the applicant is represented by an agent, both the applicant's actual mailing address and the agent's mailing address shall be provided on the application.

(C) The applicant's written authorization for an agent, if any, to act on the applicant's behalf.

(D) A description of the property that is the subject of the application sufficient to identify it on the assessment roll.

(E) The applicant's opinion of the value of the property on the valuation date of the assessment year in issue.

(F) The roll value on which the assessment of the property was based.

(G) The facts relied upon to support the claim that the board should order a change in the assessed value, base year value, or classification of the subject property. The amount of the tax or the amount of an assessed value increase shall not constitute facts sufficient to warrant a change in assessed values.

(2) The form shall also include:

(A) A notice that a list of property transfers within the county, that have occurred within the preceding two-year period, is open to inspection at the assessor's office to the applicant upon payment of a fee of ten dollars ($10). This requirement shall not apply to counties with a population under 50,000 as determined by the 1970 decennial census.

(B) A notice that written findings of fact will be prepared by the board upon request if the applicable fee is paid. An appropriate place for the applicant to make the request shall be provided.

(3) An application may include one or more reasons for filing the application. Unless permitted by local rules, an application shall not include both property on the secured roll and property on the unsecured roll.

Rule 305. (Contd.)

(4) An application that does not include the information required by subsection (c)(1) of this regulation is invalid and shall not be accepted by the board. Prompt notice that an application is invalid shall be given by the clerk to the applicant and, where applicable, the applicant's agent. An applicant or the applicant's agent who has received notice shall be given a reasonable opportunity to correct any errors and/or omissions. Disputes concerning the validity of an application shall be resolved by the board.

(5) An application that includes the correct information required by subdivision (1) is valid and no additional information shall be required of the applicant on the application form.

(6) If the county has appointed hearing officers as provided for in Revenue and Taxation Code section 1636, the application form shall advise the applicant of the circumstances under which the applicant may request that the application be heard by such an officer.

(7) If the application appeals property subject to an escape assessment resulting from an audit conducted pursuant to section 469 of the Revenue and Taxation Code, then all property, both real and personal, of the assessee at the same profession, trade, or business location shall be subject to review, equalization, and adjustment by the appeals board, except when the property has previously been equalized for the year in question.

(d) TIME OF FILING.

(1) An application appealing a regular assessment shall be filed with the clerk during the regular filing period beginning July 2 but no later than September 15. A regular assessment is one placed on the assessment roll for the most recent lien date, prior to the closing of that assessment roll. Additionally, an application appealing a base year value for the most recent lien date, where that value is not the value currently on the assessment roll, shall be filed with the clerk during the regular filing period beginning July 2 but no later than September 15.

(2) An application appealing an escape assessment or a supplemental assessment must be filed with the clerk no later than 60 days after the date on which the assessee was notified of the assessment, or no later than 60 days after the mailing of the tax bill in a county of the first class and in those counties where the board of supervisors has adopted a resolution to that effect, pursuant to section 1605 of the Revenue and Taxation Code.

(3) An application appealing a proposed reassessment made for property damaged by misfortune or calamity pursuant to section 170 of the Revenue and Taxation Code must be filed with the clerk no later than 14 days after the date of mailing of the notice of proposed reassessment by the assessor. The decision of the board regarding the damaged value of property shall be final, however, the decision regarding the reassessment made pursuant to section 170 shall create no presumption regarding the value of the property subsequent to the date of the damage.

Rule 305. (Contd.)

(4) An application will be deemed to have been timely filed:

(A) If it is sent by U.S. mail, properly addressed with postage prepaid and is postmarked on the last day of the filing period or earlier within such period; or

(B) If proof satisfactory to the board establishes that the mailing occurred on the last day of the filing period or within such period. Any statement or affidavit made by an applicant asserting such a timely filing must be made within one year of the last day of the filing period.

(5) An application filed by mail that bears both a private business postage meter postmark date and a U.S. Postal Service postmark date will be deemed to have been filed on the date that is the same as the U.S. Postal Service postmark date, even if the private business postage meter date is the earlier of the two postmark dates. If the last day of the filing period falls on Saturday, Sunday, or a legal holiday, an application that is mailed and postmarked on the next business day shall be deemed timely filed. If the county's offices are closed for business prior to 5 p.m. or for the entire day on which the deadline for filing falls, that day shall be considered a legal holiday.

(6) Except as provided in sections 620.5, 1603, and 1605 of the Revenue and Taxation Code, the board has no jurisdiction to hear an application unless filed within the time periods specified above.

(e) AMENDMENTS AND CORRECTIONS.

(1) An applicant or an applicant's agent may amend an application until 5:00 p.m. on the last day upon which it might have been timely filed.

(2) After the filing period has expired:

(A) An invalid application may be corrected in accordance with subsection (c)(4) of this regulation.

(B) The applicant or the applicant's agent may amend an application provided that the effect of the amendment is not to request relief additional to or different in nature from that originally requested.

(C) (i) Upon request of the applicant or the applicant's agent, the board, in its discretion, may allow the applicant or the applicant's agent to make amendments to the application in addition to those specified in subdivisions (A) and (B) to state additional facts claimed to require a reduction of the assessment that is the subject of the application.

(ii) The applicant or the applicant's agent shall state the reasons for the request, which shall be made in writing and filed with the clerk of the board prior to any scheduled hearing, or may be made orally at the hearing. If made in writing, the clerk shall provide a copy to the assessor upon receipt of the request.

(iii) As a condition to granting a request to amend an application, the board may require the applicant to sign a written agreement extending the two-year period provided in section 1604 of the Revenue and Taxation Code.

(iv) If a request to amend is granted, and upon the request of the assessor, the hearing on the matter shall be continued by the board for no less than 45 days, unless the parties mutually agree to a different period of time.

Rule 305. (Contd.)

(3) An applicant or an applicant's agent shall be permitted to present testimony and other evidence at the hearing to support a full value that may be different from the opinion of value stated on the application. The presentation of such testimony or other evidence shall not be considered a request to amend or an amendment to the application.

(f) CLAIM FOR REFUND. If a valid application is designated as a claim for refund pursuant to section 5097 of the Revenue and Taxation Code, the applicant shall be deemed to have challenged each finding of the board and to have satisfied the requirements of section 5097.02 of the Revenue and Taxation Code.

(g) RETENTION OF RECORDS. The clerk may destroy records consisting of assessment appeal applications when five years have elapsed since the final action on the application. The records may be destroyed three years after the final action on the application if the records have been microfilmed, microfiched, imaged, or otherwise preserved on a medium that provides access to the documents. As used in this subsection, ''final action'' means the date of the final decision by the board.

(h) CONSOLIDATION OF APPLICATIONS. The board, on its own motion or on a timely request of the applicant or applicants or the assessor, may consolidate applications when the applications present the same or substantially related issues of valuation, law, or fact. If applications are consolidated, the board shall notify all parties of the consolidation.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended December 11, 1967, effective January 13, 1968.
Amended May 21, 1968, effective June 26, 1968.
Amended November 20, 1968, effective November 22, 1968.
Amended June 4, 1969, effective June 6, 1969.
Amended May 6, 1970, effective June 6, 1970.
Amended April 14, 1972, effective May 14, 1972.
Amended June 13, 1974, effective June 14, 1974.
Amended April 7, 1977, effective May 22, 1977, applicable to 1977 assessment appeals.
Amended July 31, 1980, effective November 19, 1980.
Amended July 27, 1982, effective December 30, 1982.
Amended and effective October 23, 1997.
Amended April 5, 2000, effective June 25, 2000.

Rule 305.1. EXCHANGE OF INFORMATION.

Authority: Section 15606(c), Government Code.

Reference: Sections 408, 441, 1606, and 1609.4, Revenue and Taxation Code.

(a) REQUEST FOR INFORMATION. When the assessed value of the property involved, before deduction of any exemption accorded the property, is $100,000 or less, the applicant may file a written request for an exchange of

Rule 305.1. (Contd.)

information with the assessor; and when the assessed value before deduction of any exemption exceeds $100,000, either the applicant or the assessor may request such an exchange. The request may be filed with the clerk at the time an application for hearing is filed or may be submitted to the other party and the clerk at any time prior to 30 days before the commencement of the hearing. For purposes of determining the date upon which the exchange was deemed initiated, the date of postmark as affixed by the United States Postal Service, or the date certified by a bona fide private courier service on the envelope or package containing the information shall control. The clerk shall, at the earliest opportunity, forward any request filed with the application or a copy thereof to the other party. The request shall contain the basis of the requesting party's opinion of value for each valuation date at issue and the following data:

(1) COMPARABLE SALES DATA. If the opinion of value is to be supported with evidence of comparable sales, the properties sold shall be described by the assessor's parcel number, street address or legal description sufficient to identify them. With regard to each property sold there shall be presented the approximate date of sale, the price paid, the terms of sale (if known), and the zoning of the property.

(2) INCOME DATA. If the opinion of value is to be supported with evidence based on an income study, there shall be presented: the gross income, the allowable expenses, the capitalization method (direct capitalization or discounted cash flow analysis), and rate or rates employed.

(3) COST DATA. If the opinion of value is to be supported with evidence of replacement cost, there shall be presented:

(A) With regard to improvements to real property: the date of construction, type of construction, and replacement cost of construction.

(B) With regard to machinery and equipment: the date of installation, replacement cost, and any history of extraordinary use.

(C) With regard to both improvements and machinery and equipment: facts relating to depreciation, including any functional or economic obsolescence, and remaining economic life.

The information exchanged shall provide reasonable notice to the other party concerning the subject matter of the evidence or testimony to be presented at the hearing. There is no requirement that the details of the evidence or testimony to be introduced must be exchanged.

(b) TRANSMITTAL OF DATA TO OTHER PARTY. If the party requesting an exchange of data under the preceding subsection has submitted the data required therein within the specified time, the other party shall submit a response to the initiating party and to the clerk at least 15 days prior to the hearing. The response shall be supported with the same type of data required of the requesting party. When the assessor is the respondent, he or she shall submit the response to the address

Rule 305.1. (Contd.)

shown on the application or on the request for exchange of information, whichever is filed later. The initiating party and the other party shall provide adequate methods of submission to ensure to the best of their ability that the exchange of information process is completed at least 10 days prior to the hearing.

(c) PROHIBITED EVIDENCE; NEW MATERIAL; CONTINUANCE. Whenever information has been exchanged pursuant to this regulation, the parties may introduce evidence only on matters pertaining to the information so exchanged unless the other party consents to introduction of other evidence. However, at the hearing, each party may introduce new material relating to the information received from the other party. If a party introduces such new material at the hearing, the other party, upon request, shall be granted a continuance for a reasonable period of time.

(d) NONRESPONSE TO REQUEST FOR INFORMATION. If one party initiates a request for information and the other party does not comply within the time specified in subsection (b), the board may grant a postponement for a reasonable period of time. The postponement shall extend the time for responding to the request. If the board finds willful noncompliance on the part of the noncomplying party, the hearing will be convened as originally scheduled and the noncomplying party may comment on evidence presented by the other party but shall not be permitted to introduce other evidence unless the other party consents to such introduction.

History: Adopted May 6, 1970, effective June 6, 1970.
Amended May 5, 1971, effective June 10, 1971.
Amended June 13, 1974, effective June 14, 1974.
Amended July 27, 1982, effective February 10, 1983.
Amended January 5, 2000, effective April 22, 2000.
Amended and effective September 19, 2002.

Rule 305.2. PREHEARING CONFERENCE

Reference: Article XIII, Section 16, California Constitution.
Section 1601 et seq., Revenue and Taxation Code.

(a) A county board of supervisors may establish prehearing conferences. If prehearing conferences are established, the county board of supervisors shall adopt rules of procedure for prehearing conferences. A prehearing conference may be set by the clerk at the request of the applicant or the applicant's agent, the assessor, or at the direction of the appeals board. The purpose of a prehearing conference is to resolve issues such as, but not limited to, clarifying and defining the issues, determining the status of exchange of information requests, stipulating to matters on which agreement has been reached, combining applications into a single hearing, bifurcating the hearing issues, and scheduling a date for a hearing officer or the board to consider evidence on the merits of the application.

(b) The clerk of the board shall set the matter for a prehearing conference and notify the applicant or the applicant's agent and the assessor of the time and date of

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the conference. Notice of the time, date, and place of the conference shall be given not less than 30 days prior to the conference, unless the assessor and the applicant stipulate orally or in writing to a shorter notice period.

History: Adopted January 5, 2000, effective April 22, 2000.

Rule 305.3. APPLICATION FOR EQUALIZATION UNDER REVENUE AND TAXATION CODE SECTION 469

Authority: Section 15606(c), Government Code.

Reference: Sections 23, 408, 469, 531, 531.8, 533, 534, 1603 and 1605, Revenue and Taxation Code.

(a) GENERAL. In addition to any rights of appeal of escape or supplemental assessments as described in Rule 305(d)(2) of this subchapter, if the result of an audit discloses property subject to an escape assessment for any year covered by the audit, then, pursuant to section 1605 of the Revenue and Taxation Code, an application may be filed for review, equalization, and adjustment of the original assessment of all property of the assessee at the location of the profession, trade, or business for that year, except any property that has previously been equalized for the year in question.

(b) DEFINITIONS. For purposes of subsection (a) of this regulation:

(1) ''Audit'' means any audit of the books and records of a taxpayer engaged in a profession, trade, or business who owns, claims, possesses, or controls locally assessable business tangible personal property and trade fixtures within the county.

(2) ''Property subject to an escape assessment'' means any individual item of the assessee's property that was underassessed or not assessed at all when the assessor made the original assessment of the assessee's property, and which has not been previously equalized by an appeals board, regardless of whether the assessor actually makes or enrolls an escape assessment. Property is subject to an escape assessment even if the audit discloses an overassessment of another portion of an item of the property, and the amount of the underassessment could be offset completely by the amount of overassessment. If the audit discloses that any property was subject to an escape assessment, the assessor shall include that fact as a finding presented to the taxpayer as required by Rule 191. If no such finding is made by the assessor, the taxpayer may file an application and present evidence to the board of the existence and disclosure of property subject to escape assessment. If the board determines that property subject to escape assessment was disclosed as a result of an audit, the board shall permit the taxpayer's section 469 appeal.

(3) ''Result of an audit'' means the final conclusions reached by the assessor during the audit process as described in Rule 191 and shall include a description of any property subject to escape assessment as noted in the audit work papers or as identified in writing by the taxpayer.

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(4) ''Original assessment'' means the assessment and any subsequent roll corrections or roll changes prior to the date of the commencement of the audit for the roll year for which the result of the audit discloses property subject to an escape assessment.

(5) ''All property of the assessee'' means any property, real or personal, assessed to the assessee, or the assessee's statutory or legal predecessor in interest, at the location of the profession, trade, or business for the year of the audit.

(6) ''Location of the profession, trade, or business'' means a site, as determined by the board, where the property subject to the escape assessment is located. Site includes all property within the same appraisal unit as the property that is subject to escape assessment.

Site also includes other property not within the same appraisal unit as the property that is subject to escape assessment, when the other property and the property that escaped assessment function as part of the same economic unit of profession, trade, or business. A ''location of the profession, trade, or business'' may include multiple parcels of real property, noncontiguous parcels, parcels with separate addresses, and parcels in separate revenue districts within the county.

(7) ''Property that has been previously equalized for the year in question'' means that the board has previously made a final determination of full value for that item, category, or class of property that was the subject of an assessment appeals hearing or was the subject of a stipulated agreement approved by the board. An item, category, or class of property, or portion thereof, shall be deemed to have been the subject of a hearing or of a stipulated agreement only to the extent the board's decision or the stipulated agreement specifically identify the value of such item, category, or class, or portion thereof, as having been contested and resolved at hearing or as having been agreed to by the parties in stipulation.

(c) NOTICE OF AUDIT RESULTS. Upon completion of an audit of the assessee's books and records, the assessor shall notify the assessee in writing of the results of the audit as defined in subsection (b)(3) of this rule for all property, locations, and years that were the subject of the audit. At the request of the assessee, the assessor shall permit the assessee or his or her designated representative to inspect or copy any information, documents, or records relating to the audit in accordance with the provisions of Revenue and Taxation Code section 408.

(d) NOTICE FOR FILING AN APPLICATION. An application shall be filed with the clerk no later than 60 days after the date of mailing by which the assessee is notified that the result of the audit has disclosed property subject to escape assessment. The notice shall be mailed to the assessee by regular United States mail directed to the assessee at the assessee's latest address known to the assessor, unless, prior to the mailing of the notice, the assessor is notified in writing by the assessee of a change in address. The notice for purposes of filing an application shall be one of the following, depending upon the conclusion(s) of the audit:

(1) Where an escape assessment is enrolled by the assessor, the notice shall be the tax bill based upon the results of the audit and resulting escape assessment(s) for

Rule 305.3. (Contd.)

counties of the first class or any county that has adopted a resolution pursuant to Revenue and Taxation Code section 1605, subdivision (c). If the county is not a county of the first class or has not adopted a resolution pursuant to Revenue and Taxation Code section 1605, subdivision (c), the notice of escape assessment pursuant to Revenue and Taxation Code section 534 shall serve as the notice.

(2) Where the assessor does not enroll an escape assessment resulting from the audit or when the escape assessment is enrolled but offset pursuant to Revenue and Taxation Code section 533, the assessor's written notification of the audit results for the property, locations, and each year that were the subject of the audit as described in subsection (c) of this rule shall be the notice. The notice of audit results showing property subject to escape assessment for each year shall indicate that it is the notice of the assessee's right to file an application.

(e) EXAMPLES. The following examples are illustrative of the foregoing criteria. Examples 1 and 2 concern ''who may file'' an application on the assessee's property. Examples 3, 4, and 5 clarify the ''location'' of the profession, trade, or business.

Example 1: Taxpayer DRK owns and is assessed for land, a building, and business property. DRK leases the entire business to RCJ. The county assessor conducts an audit of DRK and the result of the audit discloses property subject to an escape assessment. DRK, as the assessee, can file an application for equalization for all property, real and personal, where the property subject to the escape assessment is located. In addition, RCJ may file an application for equalization of DRK's property if RCJ qualifies as a person affected pursuant to rule 302 of this subchapter.

Example 2: Taxpayer DRK owns and is assessed for land and a building. DRK leases the land and building to RCJ. RCJ operates a business in DRK's building and is assessed for business tangible personal property and trade fixtures. The county assessor conducts an audit of RCJ, and the result of the audit discloses property subject to an escape assessment. RCJ, as the assessee, can file an application for equalization on his personal property and trade fixtures only. RCJ cannot file an application on DRK's land and building as this is not property of the assessee. In addition, since DRK is not a person affected pursuant to rule 302 of the subchapter, he cannot file an application on either his land and building or RCJ's personal property and fixtures.

Example 3: An assessee conducts a profession, trade, or business on a campus-like setting that is composed of three separate buildings. Each building has its own address and assessor's parcel number and is owned and operated by the same assessee. If an audit discloses any property subject to an escape assessment, then all property of the assessee on the campus is eligible for equalization if the board determines that it functions and is operated as one economic unit of a profession, trade, or business.

Example 4: An assessee operates five grocery stores in a county. Although the stores are owned and operated by one assessee, carry the same type of merchandise, and share in common advertising, each store operates independently. If property

Rule 305.3. (Contd.)

subject to an escape assessment is discovered only at one store, the property at that store's location is subject to equalization following an audit. The other four stores are not considered property at the site of the profession, trade, or business where the escape assessment occurred, as they operate independently as separate economic units.

Example 5: An assessee owns and operates a department store with a parking garage on an adjacent parcel. The parcel that houses the parking garage has no personal property or fixtures located on it. If an audit discloses personal property subject to an escape assessment for the department store, the parking garage would also be eligible for equalization if the board determines that the parcels with the garage and the store are part of the same appraisal unit or economic unit of the profession, trade, or business.

(f) JURISDICTION OF THE BOARD. Nothing in this rule shall be interpreted to limit or enlarge a board's jurisdiction under specific statutory provisions or other rules of this subchapter.

History: Adopted November 28, 2001, effective May 17, 2002. The rule was added to interpret the equalization provisions of section 469 of the Revenue and Taxation Code by clarifying the conditions under which an assessee may file an application for assessment appeal based on the result of an audit. When the result of an audit discloses property subject to escape assessment, section 469 provides that the assessee may appeal the orignal assessment of all property at the location of the business, trade or profession.

Rule 305.5. BASE YEAR VALUE PRESUMPTION.

Reference: Sections 80, 81, 110.1, 1603, 1605, Revenue and Taxation Code.

(a) The appeals board decision that the full cash value, as defined in section 110 of the Revenue and Taxation Code, is lower than the adjusted base year value (the base year value adjusted to reflect inflation as prescribed by section 110.1, subdivision (f), of the Revenue and Taxation Code) will not establish a new base year value, unless the base year value is the subject of the appeal.

(b) Any base year value determined by a local board of equalization, an assessment appeals board, or by a court for any 1975 assessment shall be conclusively presumed to be the base year value for the property assessed.

(c) The full cash value determined for property that is purchased, is newly constructed, or changes ownership after the 1975 lien date, shall be conclusively presumed to be the base year value, unless an application for equalization is filed;

(1) Within the time period specified in section 1605 of the Revenue and Taxation Code following a determination of new construction or change in ownership;

Rule 305.5. (Contd.)

(2) During the regular equalization period provided for in section 1603 of the Revenue and Taxation Code for the year in which the assessment is placed on the assessment roll, or is filed during the regular equalization period in any of the three succeeding years. Any determination of full cash value by a local board of equalization, an assessment appeals board, or by a court of law resulting from such filing shall be conclusively presumed to be the base year value beginning with the lien date of the assessment year in which the appeal is filed; or

(3) At any time after the time period specified in (1) or (2) if the applicant claims that an erroneous change in ownership determination occurred.

(d) Any base year value determined pursuant to section 51.5 of the Revenue and Taxation Code shall be conclusively presumed to be the base year value unless an application is filed during the regular equalization period in the year in which the error was corrected or during the regular equalization period in any of the three succeeding years. Once an application is filed, the base year value determined pursuant to that application shall be conclusively presumed to be the base year value for that assessment event.

(e) An application for equalization made pursuant to sections 1603 or 1605 of the Revenue and Taxation Code, when determined, shall be conclusively presumed to be the base year value for that assessment event.

History: Adopted November 20, 1968, effective November 22, 1968.
Amended June 4, 1969, effective June 6, 1969.
Amended May 6, 1970, effective June 6, 1970.
Amended May 5, 1971, effective June 10, 1971.
Amended April 14, 1972, effective May 14, 1972.
Amended December 17, 1975, effective January 25, 1976.
Amended July 31, 1980, effective November 19, 1980.
Amended October 6, 1999, effective April 22, 2000.

Rule 306. COPY OF APPLICATION, AMENDMENT, AND CORRECTION TO ASSESSOR.

Authority: Section 15606, Government Code.

Reference: Sections 1603 and 1606, Revenue and Taxation Code.

The clerk shall transmit to the assessor a copy of each application for a change in assessment and each written request for amendment or correction that is received. A reasonable time shall be allowed before the hearing for the assessor to obtain information relative to the property and the assessment thereof.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended April 5, 2000, effective June 30, 2000.

Rule 307. NOTICE OF HEARING.

Reference: Sections 50, 51, 1601, 1603, 1606, 1610.8, 1620, Revenue and Taxation Code.

(a) After the filing of an application for reduction of an assessment, the clerk shall set the matter for hearing and notify the applicant or the applicant's agent in writing by personal delivery or by depositing the notice in the United States mail directed to the address given in the application. If requested by the assessor or the applicant, the clerk of the board may electronically transmit the notice to the requesting party. The notice shall designate the time and place of the hearing. It shall also include a statement that the board is required to find the full value of the property from the evidence presented at the hearing and that the board can raise, under certain circumstances, as well as lower or confirm the assessment being appealed. The notice shall include a statement that an application for a reduction in the assessment of a portion of an improved real property (e.g., land only or improvements only) or a portion of installations which are partly real property and partly personal property (e.g., only the improvement portion or only the personal property portion of machinery and equipment) may result in a reappraisal of all property of the applicant at the site which may result in an increase in the unprotested assessment of the other portion or portions of the property, which increase will offset, in whole or in part, any reduction in the protested assessment.

(b) The notice shall be given no less than forty-five days prior to the hearing unless a shorter notice period has been stipulated to by the assessor and the applicant or the applicant's agent pursuant to section 1605.6 of the Revenue and Taxation Code.

(c) The clerk shall notify the assessor of the time and place of the hearing.

(d) When proposing to raise an assessment on its own motion without an application for reduction pending before it, the board shall give notice of the hearing in the manner provided hereinbelow not less than 20 days prior to the hearing unless notice is waived by the assessee or the assessee's agent in writing in advance of the hearing or orally at the time of the hearing or a shorter notice period is stipulated to by the assessor and assessee or the assessee's agent. The notice shall be given to the assessee as shown on the latest assessment roll by depositing the notice in the United States mail directed to the assessee at the latest address of the assessee available to the assessor on file in the records in the assessor's office. It shall contain:

(1) A statement that a hearing will be held before the local board to determine whether or not the assessment shall be raised;

(2) The time and place of the hearing;

(3) The assessor's parcel number or numbers of the property as shown on the local roll;

(4) A statement that the board is required to find the full value of the property from the evidence presented at the hearing;

(5) The amount by which it is proposed to raise the assessment.

Rule 307. (Contd.)

History: Adopted May 11, 1967, effective June 11, 1967.
Amended October 4, 1967, effective October 5, 1967.
Amended May 21, 1968, effective June 26, 1968.
Amended November 20, 1968, effective November 22, 1968.
Amended June 4, 1969, effective June 6, 1969.
Amended May 6, 1970, effective June 6, 1970.
Amended April 14, 1972, effective May 14, 1972.
Amended March 1, 1984, effective June 8, 1984.
Amended and effective December 13, 1995.
Amended and effective August 1, 1996.
Amended October 6, 1999, effective April 22, 2000.

Rule 308. REQUEST FOR FINDINGS.

Reference: Sections 1603, 1611.5, 1611.6, Revenue and Taxation Code.

(a) If an applicant or the assessor desires written findings of fact, the request must be in writing and submitted to the clerk before commencement of the hearing. The requesting party may abandon the request and waive findings at the conclusion of the hearing. If the requesting party abandons the request at this time, the other party may orally or in writing renew the request at the conclusion of the hearing and accompany the request with payment of the required fee or deposit. The county may impose a reasonable fee, as determined by the board of supervisors, to cover the expense of preparing the findings and conclusions and may require a deposit to be paid prior to the end of the hearing. If, at the conclusion of the hearing, a party requesting written findings has failed to pay the required fee or deposit, the board need not prepare written findings. The board may deny a request made after the conclusion of the hearing that seeks to waive written findings.

(b) The written findings of fact shall fairly disclose the board's findings on all material points raised in the application and at the hearing. The findings shall also include a statement of the method or methods of valuation used in determining the full value of the property. The county shall provide findings within 45 days after the final determination of the board is entered into the record pursuant to regulation 325 of this subchapter, and shall accompany them with a notice that a request for a transcript of the hearing must be made within 60 days after the final determination.

(c) If the county board fails to make findings upon request, or if findings made are found by a reviewing court to be so deficient that a remand to the county board is ordered to secure reasonable compliance with the elements of findings required by section 1611.5 of the Revenue and Taxation Code, the action of the county board shall be deemed to be arbitrary and capricious within the meaning of section 800 of the Government Code, so as to support an allowance of reasonable attorney's fees against the county for the services necessary to obtain proper findings. The dollar limitation set forth in section 800 of the Government Code shall not apply to an allowance of attorney's fees pursuant to this section.

Rule 308. (Contd.)

History: Adopted May 11, 1967, effective June 11, 1967.
Amended November 20, 1968, effective November 22, 1968.
Amended April 14, 1972, effective May 14, 1972.
Amended June 23, 1981, effective September 19, 1981.
Amended November 18, 1987, effective January 28, 1988.
Amended October 6, 1999, effective April 22, 2000.

Rule 308.5. DISQUALIFICATION OF A BOARD MEMBER OR HEARING OFFICER.

Reference: Sections 1624.4, 1641.2, Revenue and Taxation Code.

(a) In those counties having assessment appeals boards or hearing officers, the party affected or the party's agent, or the assessor, may file with the clerk a written statement objecting to the hearing of a matter before a member of the board or a hearing officer. The statement shall set forth the facts constituting the ground of the disqualification of the member or hearing officer and shall be signed by the party affected or the party's agent, or by the assessor, and shall be filed with the clerk at the earliest practicable opportunity after discovery of the facts constituting the ground of the member's or hearing officer's disqualification, and in any event before the commencement of the hearing of any issue of fact in the proceeding before such member or hearing officer. Copies of the statement shall be served by the presenting party on each party to the proceeding and on the board member or hearing officer alleged to be disqualified. Within 10 days after filing of the statement or 10 days after service of it on him or her, whichever is later, the board member or hearing officer may file with the clerk a written answer:

(1) Consenting to the proceeding being heard by another member or hearing officer, in which event the clerk shall appoint a replacement member or hearing officer, or

(2) Denying his or her disqualification, which answer may admit or deny any or all of the facts alleged in the statement and set forth any additional facts relevant to his or her disqualifications.

The clerk shall forthwith transmit a copy of such answer to each party.

Every statement and answer shall be verified by oath in the manner prescribed by section 446 of the Code of Civil Procedure.

(b) The question of the member's or hearing officer's disqualification shall be heard and determined by a board member, other than the member subject to the disqualification challenge, agreed upon by the parties who have appeared in the proceeding, or, in the event of their failing to agree, by a member assigned to act by the clerk. Within five days after the expiration of the time allowed by this regulation for the member to answer, the clerk shall assign a member to hear and determine the matter of the disqualification.

Rule 308.5. (Contd.)

Once the member has been selected pursuant to subsection (b) that member shall determine the qualification of the challenged member or hearing officer.

(c) In a county whose board of supervisors has adopted a resolution implementing the provisions of section 1640.1 and 1641.1 of the Revenue and Taxation Code, the board may elect to schedule the application before the board in lieu of following the procedures prescribed above.

History: Adopted May 6, 1970, effective June 6, 1970.
Amended June 13, 1974, effective June 14, 1974.
Amended October 6, 1999, effective April 22, 2000.

Rule 308.6. APPLICATION FOR EQUALIZATION BY MEMBER, ALTERNATE MEMBER, OR HEARING OFFICER.

Reference: Section 1622.6, Revenue and Taxation Code.

(a) An application for equalization filed pursuant to section 1603 or 1605 of the Revenue and Taxation Code by a member or alternate member of an assessment appeals board or an appointed hearing officer shall be heard before an assessment appeals board panel consisting of three special alternate assessment appeals board members appointed by order of the presiding judge of the superior court in the county in which the application is filed.

(b) A special alternate assessment appeals board member may hear only the application or applications for equalization set forth in the superior court order appointing such member.

(c) Any person shall be eligible for appointment as a special alternate assessment appeals board member who meets the qualifications set forth in section 1624 of the Revenue and Taxation Code.

(d) Sections 1624.1 and 1624.2 of the Revenue and Taxation Code shall be applicable to the appointment of a special assessment appeals board member.

History: Adopted June 13, 1974, effective June 14, 1974.
Amended December 17, 1975, effective January 25, 1976.
Amended October 6, 1999, effective April 22, 2000.
Amended and effective February 13, 2001.

Rule 309. HEARING.

Reference: Sections 441, 1603, 1604, 1606, 1624.4, 1641.1, 1641.2, Revenue and Taxation Code.

(a) In counties having a population in excess of 4,000,000, on the fourth Monday in September of each year, the board shall meet to equalize the assessment of property on the local roll and shall continue to meet for that purpose from time to time until the business of equalization is disposed of. In all other counties, the board shall meet on the third Monday in July and shall continue to meet until the business of equalization is disposed of. All hearings before the board shall be conducted in the manner provided in this subchapter. Nothing herein requires the board to conduct hearings prior to the final day for filing applications.

(b) A hearing must be held and a final determination made on the application within two years of the timely filing of an application for reduction in assessment submitted pursuant to subdivision (a) of section 1603 of the Revenue and Taxation Code, unless the applicant or the applicant's agent and the board mutually agree in writing or on the record to an extension of time.

(c) If the hearing is not held and a determination is not made within the time specified in subsection (b) of this regulation, the applicant's opinion of value stated in the application shall be conclusively determined by the board to be the basis upon which property taxes are to be levied, except when:

(1) The applicant has not filed a timely and complete application; or,

(2) The applicant has not submitted a full and complete property statement as required by law with respect to the property which is the subject of the application; or,

(3) The applicant has not complied fully with a request for the exchange of information under regulation 305.1 of this subchapter or with the provisions of subdivision (d) of section 441 of the Revenue and Taxation Code; or,

(4) Controlling litigation is pending. "Controlling litigation" is litigation which is:

(A) pending in a state or federal court whose jurisdiction includes the county in which the application is filed; and,

(B) directly related to an issue involved in the application, the court resolution of which would control the resolution of such issue at the hearing; or

(5) The applicant has initiated proceedings to disqualify a board member pursuant to Revenue and Taxation Code section 1624.4 within 90 days of the expiration of the two-year period required by Revenue and Taxation Code section 1604; or,

(6) The applicant has requested that the hearing officer's recommendation be heard by the board pursuant to Revenue and Taxation Code section 1641.1, in those counties in which the board of supervisors has adopted a resolution implementing section 1641.1, within 90 days of the expiration of the two-year period required by Revenue and Taxation Code section 1604.

Rule 309. (Contd.)

For applications involving base year value appeals that have not been heard and decided by the end of the two-year period provided in section 1604 of the Revenue and Taxation Code and where the two-year period has not been extended pursuant to subsections (b) or (c) of this regulation, the applicant's opinion of value will be entered on the assessment roll for the tax year or years covered by the pending application, and will remain on the roll until the fiscal year in which the board makes a final determination on the application. No increased or escape taxes other than those required by a change in ownership or new construction, or resulting from application of the inflation factor to the applicant's opinion of value shall be levied for the tax years during which the board fails to act.

For applications appealing decline in value and personal property assessments that have not been heard and decided by the end of the two-year period provided in section 1604, the applicant's opinion of value will be enrolled on the assessment roll for the tax year or years covered by the pending application.

(d) If the applicant has initiated proceedings pursuant to subsection (c)(5), or made a request pursuant to subsection (c)(6) of this regulation, the two-year time period described in subsection (b) shall be extended 90 days.

(e) The applicant shall not be denied a timely hearing and determination pursuant to subsection (b) of this regulation, by reason of any of the exceptions enumerated in subsection (c) herein, unless, within two years of the date of the application, the board, or the clerk at the direction of the board, gives the applicant and/or the applicant's agent written notice of such denial. The notice shall indicate the basis for the denial and inform the applicant of his or her right to protest the denial. If requested by the applicant or the applicant's agent, the clerk shall schedule a hearing on the validity of the application and shall so notify the applicant, the applicant's agent, and the assessor.

When a hearing is postponed or not scheduled because controlling litigation is pending, the notice to the applicant shall identify the controlling litigation by the name of the case, the court number or the docket number of the case, and the court in which the litigation is pending. If a hearing is postponed because controlling litigation is pending, the hearing must be held and a final determination made within a period of two years after the application is filed, excluding the period of time between the notice of pending litigation and the date that the litigation becomes final.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended June 13, 1974, effective June 14, 1974.
Amended April 4, 1984, effective June 30, 1984.
Amended June 25, 1997, effective September 6, 1997.
Amended January 5, 2000, effective April 22, 2000.

Rule 310. SELECTION OF BOARD CHAIR.

Reference: Section 1609, Revenue and Taxation Code.

The board shall select one of its members to act as chair and preside over all hearings. This function may be rotated among board members. The chair shall exercise such control over the hearings as is reasonable and necessary. He or she shall make all rulings regarding procedural matters and regarding the admission or exclusion of evidence.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended October 6, 1999, effective April 22, 2000.

Rule 311. QUORUM AND VOTE REQUIRED.

Reference: Sections 1601, 1620, 1622.1, 1622.5, 1622.6, Revenue and Taxation Code.

(a) No hearing before the board shall be held unless a quorum is present. Except as otherwise provided in regulation 310 of this subchapter, no decision, determination or order shall be made by the board by less than a majority vote of all the members of the board who have been in attendance throughout the hearing.

(b) If either party so demands, a hearing must be held before the full board or, for assessment appeals boards appointed pursuant to Revenue and Taxation Code section 1622.1, a full three member panel. In the event that only a quorum is present and the applicant demands a hearing before the full board, or full three member panel designated pursuant to Revenue and Taxation Code section 1622.1, the board may request that the applicant extend the two-year period provided in section 1604 of the Revenue and Taxation Code if the demand precludes the matter from being heard and decided before the expiration of the two-year period. If the applicant does not extend the two-year period as requested, the board may deny the applicant's demand for a hearing before a full board or a full three member panel.

(c) If a hearing takes place before a board consisting of an even number of members and they are unable to reach a majority decision, the application shall be reheard before the full board. In any case wherein the hearing takes place before less than the full board, the parties may stipulate that the absent member or members may read or otherwise become familiar with the record and participate in the vote on the decision.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended May 21, 1968, effective June 26, 1968.
Amended July 27, 1982, effective February 10, 1983.
Amended October 6, 1999, effective April 22, 2000.

Rule 312. HEARINGS RECORDED.

Reference: Section 1611, Revenue and Taxation Code.

(a) All hearings of the board shall be recorded or reported, or videotaped subject to the conditions set forth in Code of Civil Procedure section 2025, subsection (1)(2).

(b) Any person may purchase a transcript of that portion of the hearings that is open to the public upon payment of a reasonable fee, provided the request to purchase has been made within 60 days after the final determination of the board.

(c) In a county which does not regularly provide a stenographic reporter, the applicant, at the applicant's own expense, may have the hearing reported by a stenographer.

(d) In a county which does provide a stenographic reporter, if the applicant desires the clerk to arrange for a stenographer, the applicant must make the request in writing at least 10 days before the hearing.

(e) If a stenographic reporter is present, the county may designate the reporter's transcript as the official record upon being filed with the board.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended April 14, 1972, effective May 14, 1972.
Amended June 13, 1974, effective June 14, 1974.
Amended October 6, 1999, effective April 22, 2000.

Rule 313. HEARING PROCEDURE.

Authority: Section 15606(c), Government Code.

Reference: Article XIII A, California Constitution.
Sections 110, 167, 1605.4, 1607, 1609, 1609.4, and 1637, Revenue and Taxation Code.
Section 664, Evidence Code.

Hearings on applications shall proceed as follows:

(a) The chair or the clerk shall announce the number of the application and the name of the applicant. The chair shall then determine if the applicant or the applicant's agent is present. If neither is present, the chair shall ascertain whether the clerk has notified the applicant of the time and place of the hearing. If the notice has been given and neither the applicant nor the applicant's agent is present, the application shall be denied for lack of appearance, or, for good cause of which the board is timely informed prior to the hearing date, the board may postpone the hearing. If the notice has not been given, the hearing shall be postponed to a later date and the clerk directed to give proper notice thereof to the applicant.

Rule 313. (Contd.)

The denial of an application for lack of appearance by the applicant, or the applicant's agent, is not a decision on the merits of the application and is not subject to the provisions of regulation 326 of this subchapter. The board of supervisors may adopt a procedure which authorizes reconsideration of the denial where the applicant furnishes evidence of good cause for the failure to appear or to make a timely request for postponement and files a written request for reconsideration within a period set by the board, not to exceed 60 days from the date of mailing of the notification of denial due to lack of appearance. Applicants who fail to request reconsideration within the period set, or whose requests for reconsideration are denied, may refile an appeal of the base year value during the next regular filing period in accordance with Revenue and Taxation Code section 80.

(b) If the applicant or the applicant's agent is present, the chair or the clerk shall announce the nature of the application, the assessed value as it appears on the local roll and the applicant's opinion of the value of the property. The chair may request that either or both parties briefly describe the subject property, the issues the board will be requested to determine, and any agreements or stipulations agreed to by the parties.

(c) In applications where the applicant has the burden of proof, the board shall require the applicant or the applicant's agent to present his or her evidence first, and then the board shall determine whether the applicant has presented proper evidence supporting his or her position. This is sometimes referred to as the burden of production. In the event the applicant has met the burden of production, the board shall then require the assessor to present his or her evidence. The board shall not require the applicant to present evidence first, when the hearing involves:

(1) A penalty portion of an assessment.

(2) The assessment of an owner-occupied single-family dwelling or the appeal of an escape assessment, and the applicant has filed an application that provides all of the information required in regulation 305(c) of this subchapter and has supplied all information as required by law to the assessor. In those instances, the chair shall require the assessor to present his or her case to the board first. With respect to escape assessments, the presumption in favor of the applicant provided in regulation 321(d) of this subchapter does not apply to appeals resulting from situations where an applicant failed to file a change in ownership statement, a business property statement, or to obtain a permit for new construction.

(3) A change in ownership and the assessor has not enrolled the purchase price, and the applicant has provided the change of ownership statement required by law. The assessor bears the burden of proving by a preponderance of the evidence that the purchase price, whether paid in money or otherwise, is not the full cash value of the property.

(d) All testimony shall be taken under oath or affirmation.

Rule 313. (Contd.)

(e) The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Failure to enter timely objection to evidence constitutes a waiver of the objection. The board may act only upon the basis of proper evidence admitted into the record. Board members or hearing officers may not act or decide an application based upon consideration of prior knowledge of the subject property, information presented outside of the hearing, or personal research. A full and fair hearing shall be accorded the application. There shall be reasonable opportunity for the presentation of evidence, for cross-examination of all witnesses and materials proffered as evidence, for argument and for rebuttal. The party having the burden of proof shall have the right to open and close the argument.

(f) When the assessor requests the board find a higher assessed value than he or she placed on the roll and offers evidence to support the higher value, the chair shall determine whether or not the assessor gave notice in writing to the applicant or the applicant's agent by personal delivery or by deposit in the United States mail directed to the address given on the application. If notice and a copy of the evidence offered has been supplied at least 10 days prior to the hearing, the assessor may introduce such evidence at the hearing. When the assessor proposes to introduce evidence to support a higher assessed value than the value on the roll, the assessor no longer has the presumption accorded in regulation 321(a) of this subchapter and the assessor shall present evidence first at the hearing, unless the applicant has failed to supply all the information required by law to the assessor. The foregoing notice requirement shall not prohibit the board from a finding of a higher assessed value when it has not been requested by the assessor.

(g) Hearings by boards and hearing officers shall be open, accessible, and audible to the public except that:

(1) Upon conclusion of the evidentiary portion of the hearing, the board or hearing officer may take the matter under submission and deliberate in private in reaching a decision, and

(2) The board or hearing officer may grant a request by the applicant or the assessor to close to the public a portion of the hearing relating to trade secrets. For purposes of this regulation, a ''trade secret'' is that information defined by section 3426.1 of the Civil Code. Such a request may be made by filing with the clerk a declaration under penalty of perjury that evidence is to be presented by the assessor or the applicant that relates to trade secrets whose disclosure to the public will be detrimental to the business interests of the owner of the trade secrets. The declaration shall state the estimated time it will take to present the evidence. Only evidence relating to the trade secrets may be presented during the time the hearing is closed, and such evidence shall be confidential unless otherwise agreed by the party to whom it relates.

Rule 313. (Contd.)

History: Adopted May 11, 1967, effective June 11, 1967.
Amended October 4, 1967, effective October 5, 1967.
Amended May 21, 1968, effective June 26, 1968.
Amended November 20, 1968, effective November 22, 1968.
Amended June 4, 1969, effective June 6, 1969.
Amended May 6, 1970, effective June 6, 1970.
Amended April 14, 1972, effective May 14, 1972.
Amended June 7, 1973, effective July 15, 1973.
Amended June 13, 1974, effective June 14, 1974.
Amended November 4, 1976, effective January 1, 1977.
Amended April 7, 1977, effective May 22, 1977, applicable to 1977 assessment appeals.
Amended December 7, 1982, effective March 16, 1983.
Amended November 14, 1984, effective March 1, 1985.
Amended January 5, 2000, effective April 22, 2000.
Amended and effective November 20, 2000.

Rule 314. LEGAL COUNSEL FOR APPLICANT AND ASSESSOR.

Reference: Sections 1620 et seq., 1638, Revenue and Taxation Code.

The applicant and the assessor may be represented by legal counsel, except that when an assessment protest is heard by a hearing officer appointed pursuant to section 1636 of the Revenue and Taxation Code, the assessor may have legal counsel only if the applicant is represented by an attorney.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended June 13, 1974, effective June 14, 1974.

Rule 316. EXAMINATION OF APPLICANT BY BOARD.

Reference: Sections 1605.5, 1607, 1608, 1620 et seq., Revenue and Taxation Code.

(a) Except as hereinafter provided, no reduction of an assessment or change in ownership or new construction determination shall be made unless the board examines, on oath, the applicant or the applicant's agent concerning the value of the property and/or the facts upon which the change in ownership or new construction determination is based, and the applicant or the applicant's agent attends and answers all questions pertinent to the inquiry.

(b) In the event there is filed with the board a written stipulation, signed by the assessor and county legal advisor on behalf of the county and by the person affected or the authorized agent making the application, as to the full value and assessed value of the property and/or a determination regarding a change in ownership or new construction, which stipulation sets forth the facts upon which the agreed upon value is premised, the board may, at a public hearing,

Rule 316. (Contd.)

(1) accept the stipulation, waive the appearance of the person affected or the agent and change the assessed value in accordance with section 1610.8 of the Revenue and Taxation Code, or,

(2) reject the stipulation or set or reset the application for reduction for hearing.

(c) The board may in its discretion, waive the examination of the applicant or the applicant's agent if the board and the assessor are satisfied that the issues raised by the application and the facts pertaining thereto have been fully considered by the board in previous years or fully presented in the application, and if the applicant or the applicant's agent requests such waiver in the application. The board shall consult with the assessor and shall act promptly on any request for waiver and give written notice of its decision no less than 30 days before commencement of the hearing on the application. If the board waives the examination of the applicant or his agent, it shall decide the case on the merits of the application and on the basis of any evidence properly produced at the hearing by the assessor.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended October 4, 1967, effective October 5, 1967.
Amended May 21, 1968, effective June 26, 1968.
Amended December 17, 1975, effective January 25, 1976.
Amended July 27, 1982, effective February 10, 1983.
Amended October 6, 1999, effective April 22, 2000.

Rule 317. PERSONAL APPEARANCE BY APPLICANT; APPEARANCE BY AGENT.

Reference: Sections 1601, 1607, 1608, Revenue and Taxation Code.

(a) The applicant must appear personally at the hearing or be represented by an agent, unless the applicant's appearance has been waived by the board in accordance with regulation 316 of this subchapter. If the applicant is represented by an agent, the agent shall be thoroughly familiar with the facts pertaining to the matter before the board.

(b) (1) If the application was filed by the applicant, any person (other than a California licensed attorney retained by the applicant or a person mentioned in subsections (c), (d) except an agent, or (e)) who appears at the hearing purporting to act as agent for the applicant shall first file with the clerk a written authorization, signed by the applicant, to represent the applicant at the hearing.

(2) If at the hearing the applicant is represented by a person other than the person who was originally authorized by the applicant to appear at the hearing, that person shall present to the board a written authorization signed by the applicant indicating the applicant's consent to the change in representation.

(3) The written authorization required pursuant to this regulation shall include the information required by regulation 305(a) of this subchapter and shall clearly state that the agent is authorized by the applicant to appear at hearings before the board.

Rule 317. (Contd.)

(c) If the property is held in joint or common ownership or in co-ownership, the presence of the applicant or any one of the owners shall constitute a sufficient appearance.

(d) Where the applicant is a corporation, limited partnership, or a limited liability company, the business entity shall make an appearance by the presence of any officer, employee, or an authorized agent, thoroughly familiar with the facts pertaining to the matter before the board.

(e) A husband may appear for his wife, or a wife for her husband, and sons or daughters for parents or vice versa.

(f) If an agent is previously authorized by the applicant to file an application, no further authorization is required for that agent to represent the applicant at the subsequent hearing.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended May 7, 1986, effective August 15, 1986.
Amended January 5, 2000, effective April 22, 2000.

Rule 321. BURDEN OF PROOF.

Reference: Sections 110, 167, 1601 et seq., Revenue and Taxation Code.
Section 664, Evidence Code.

(a) Subject to exceptions set by law, it is presumed that the assessor has properly performed his or her duties. The effect of this presumption is to impose upon the applicant the burden of proving that the value on the assessment roll is not correct, or, where applicable, the property in question has not been otherwise correctly assessed. The law requires that the applicant present independent evidence relevant to the full value of the property or other issue presented by the application.

(b) If the applicant has presented evidence, and the assessor has also presented evidence, then the board must weigh all of the evidence to determine whether it has been established by a preponderance of the evidence that the assessor's determination is incorrect. The presumption that the assessor has properly performed his or her duties is not evidence and shall not be considered by the board in its deliberations.

(c) The assessor has the burden of establishing the basis for imposition of a penalty assessment.

(d) Exceptions to subsection (a) apply in any hearing involving the assessment of an owner-occupied single-family dwelling or an escape assessment. In such instances, the presumption in section 167 of the Revenue and Taxation Code

Rule 321. (Contd.)

affecting the burden of proof in favor of the applicant who has supplied all information to the assessor as required by law imposes upon the assessor the duty of rebutting the presumption by the submission of evidence supporting the assessment.

(e) In hearings involving change in ownership, except as provided in section 110 of the Revenue and Taxation Code, the purchase price is rebuttably presumed to be the full cash value. The party seeking to rebut the presumption bears the burden of proof by a preponderance of the evidence.

(f) In weighing evidence, the board shall apply the same evidentiary standard to the testimony and documentary evidence presented by the applicant and the assessor. No greater relief may be granted than is justified by the evidence produced during the hearing.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended October 4, 1967, effective October 5, 1967.
Amended November 20, 1968, effective November 22, 1968.
Amended April 14, 1972, effective May 14, 1972.
Amended November 4, 1976, effective January 1, 1977.
Amended July 27, 1982, effective February 10, 1983.
Amended January 5, 2000, effective April 22, 2000.

Rule 322. SUBPOENAS.

Reference: Sections 1609, 1609.4, 1609.5, Revenue and Taxation Code.

(a) At the request of the applicant or the assessor in advance of the hearing or at the time of the hearing the board or the clerk on authorization from the board may issue subpoenas for the attendance of witnesses at the hearing. The board may issue a subpoena on its own motion. A subpoena may be served on any resident of the State of California or any person or business entity found within the state. All subpoenas shall be obtained from the board.

(b) If a subpoena is issued at the request of the applicant, the applicant is responsible for serving it and for the payment of witness fees and mileage.

(c) An application for a subpoena for the production of books, records, maps, and documents shall be supported by an affidavit such as is prescribed by Section 1985 of the Code of Civil Procedure.

(d) In the event a State Board of Equalization employee is subpoenaed pursuant to section 1609.5 of the Revenue and Taxation Code at the request of the applicant and the county board grants a reduction in the assessment, the county board may reimburse the applicant in whole or in part for the actual witness fees paid pursuant to section 1609.5.

Rule 322. (Contd.)

(e) If a party desires the board to issue a subpoena, the party shall make the written request sufficiently in advance of the scheduled hearing date so that the subpoenaed party has an adequate opportunity to fully comply with the subpoena prior to the commencement of the hearing. Upon such request, the board may, whenever possible, issue subpoenas pursuant to sections 1609.4 and 1609.5 of the Revenue and Taxation Code. Subpoenas shall be restricted to compelling the appearance of a person or the production of things at the hearing and shall not be utilized for purposes of prehearing discovery. A subpoena issued near in time to or after commencement of the hearing should be as limited as possible, and a continuance of the hearing may be granted, if requested, for a reasonable period of time.

(f) No subpoena to take a deposition shall be issued nor shall deposition be considered for any purpose by the board.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended October 4, 1967, effective October 5, 1967.
Amended May 21, 1968, effective June 26, 1968.
Amended October 6, 1999, effective April 22, 2000.

Rule 323. POSTPONEMENTS AND CONTINUANCES.

Reference: Section 15606 subdivision (c), Government Code.
Sections 1605.6, 1606, Revenue and Taxation Code.

(a) The applicant and/or the assessor shall be allowed one postponement as a matter of right, the request for which must be made not later than 21 days before the hearing is scheduled to commence. If the applicant requests a postponement as a matter of right within 120 days of the expiration of the two-year limitation period provided in section 1604 of the Revenue and Taxation Code, the postponement shall be contingent upon the applicant's written agreement to extend and toll indefinitely the two-year period subject to termination of the agreement by 120 days written notice by the applicant. The assessor is not entitled to a postponement as a matter of right if the request is made within 120 days of the expiration of the two-year period, but the board, in its discretion, may grant such a request. Any subsequent requests for a postponement must be made in writing, and good cause must be shown for the proposed postponement. A stipulation by an applicant and the assessor shall be deemed to constitute good cause, but shall result in extending and tolling indefinitely the two-year limitation period subject to termination of the agreement by 120 days written notice by the applicant. Any information exchange dates remain in effect based on the originally scheduled hearing date notwithstanding the hearing postponement, except as provided in regulation 305.1(d) of this subchapter.

(b) A board of supervisors may delegate decisions concerning postponement to the clerk in accordance with locally adopted rules. Requests for postponement shall be considered as far in advance of the hearing date as is practicable.

(c) At the hearing, the board or a hearing officer may continue a hearing to a later date. If the applicant requests a continuance within 90 days of the expiration of the

Rule 323. (Contd.)

two-year period specified in section 1604 of the Revenue and Taxation Code, the board may require a written extension signed by the applicant extending and tolling the two-year period indefinitely subject to termination of the agreement by 120 days written notice by the applicant. The clerk shall inform the applicant or the applicant's agent and the assessor in writing of the time and place of the continued hearing not less than 10 days prior to the new hearing date, unless the parties agree in writing or on the record to waive written notice.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended May 21, 1968, effective June 26, 1968.
Amended November 20, 1968, effective November 22, 1968.
Amended October 6, 1999, effective April 22, 2000.

Rule 324. DECISION.

Reference: Article XIIIA, California Constitution.
Section 15606, Government Code.
Sections 402.1, 402.5, 1609, 1610.8, 1611.5, Revenue and Taxation Code.

(a) DETERMINATION OF FULL VALUE, CLASSIFICATION, CHANGE IN OWNERSHIP, OR OTHER ISSUES. Acting upon proper evidence before it, the board shall determine the full value of the property, including land, improvements, and personal property, that is the subject of the hearing. The determination of the full value shall be supported by a preponderance of the evidence presented during the hearing. The board shall consider evidence of value derived by the use of any of the valuation methods described in regulation 3 of subchapter 1 of this chapter. It shall determine whether the method(s) used was (were) properly applied, considering the type of property assessed, governmentally imposed land use restrictions, and any recorded conservation easements as described in Civil Code section 815.1 et seq., by examining the factual data, the presumptions, and the estimates relied upon. The board shall also determine the classification, amount, and description of the property that is the subject of the hearing, the existence of a change in ownership or new construction, or any other issue that is properly before the board, or that is necessary to determine the full value of the property. The board shall provide to the clerk such details as are necessary for the implementation of the board's decision.

(b) JURISDICTION. The board's authority to determine the full value of property or other issues, while limited by the laws of this state and the laws of the United States and usually exercised in response to an application for equalization, is not predicated on the filing of an application nor limited by the applicant's request for relief.

When an application for review includes only a portion of an appraisal unit, whether real property, personal property, or both, the board may nevertheless determine the full value, classification, or other facts relating to other portions that have undergone

Rule 324. (Contd.)

a change in ownership, new construction or a change in value. Additionally, the board shall determine the full value of the entire appraisal unit whenever that is necessary to the determination of the full value of any portion thereof.

The board is not required to choose between the opinions of value promoted by the parties to the appeal, but shall make its own determination of value based upon the evidence properly admitted at the hearing.

An appraisal unit of property is a collection of assets that functions together, and that persons in the marketplace commonly buy and sell as a single unit or that is normally valued in the marketplace separately from other property, or that is specifically designated as such by law.

(c) VALUATION PRINCIPLES. The board, the applicant, and appraisal witnesses shall be bound by the same principles of valuation that are legally applicable to the assessor.

(d) COMPARABLE SALES. When valuing a property by a comparison with sales of other properties, the board may consider those sales that, in its judgment, involve properties similar in size, quality, age, condition, utility, amenities, site location, legally permitted use, or other physical attributes to the property being valued. When valuing property for purposes of either the regular roll or the supplemental roll, the board shall not consider a sale if it occurred more than 90 days after the date for which value is being estimated. The provisions for exclusion of any sale occurring more than 90 days after the valuation date do not apply to the sale of the subject property.

The board shall presume that zoning or other legal restrictions, of the types described in Revenue and Taxation Code section 402.1, on the use of either the property sold or the property being valued will not be removed or substantially modified in the predictable future unless sufficient grounds as set forth in that section are presented to the board to overcome that presumption.

(e) When written findings of fact are made, they shall fairly disclose the board's findings on all material points raised in the application and at the hearing. The findings shall also include a statement of the method or methods of valuation used in determining the full value of the property or its components.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended October 4, 1967, effective October 5, 1967.
Amended May 21, 1968, effective June 26, 1968.
Amended November 20, 1968, effective November 22, 1968.
Amended May 6, 1970, effective June 6, 1970.
Amended May 5, 1971, effective June 10, 1971.
Amended April 14, 1972, effective May 14, 1972.
Amended December 17, 1975, effective January 25, 1976.
Amended July 27, 1982, effective February 10, 1983.
Amended March 6, 1990, effective May 23, 1990.
Amended November 19, 1999, effective April 22, 2000.

Rule 325. NOTICE AND CLARIFICATION OF DECISION.

Reference: Section 1601 et seq., Revenue and Taxation Code.

(a) A board may announce its decision to the applicant and the assessor at the conclusion of the hearing, or it may take the matter under submission. The decision becomes final when:

(1) The vote is entered into the record at the conclusion of the hearing provided no findings of fact are requested by either party, and all parties are present at the hearing or the hearing is subject to stipulation by both parties. The county may provide a written notice of the decision.

(2) A written notice of the decision is issued provided no findings of fact are requested by either party, and the decision is taken under submission by the board at the conclusion of the hearing. The county shall issue a written notice of the decision no later than 120 days after the conclusion of the hearing. The clerk shall notify the applicant in writing of the decision of the board by United States mail addressed to the applicant or to the applicant's agent at the address given in the application.

(3) A written notice of the decision is issued or the findings of fact are issued, whichever is earlier, provided findings of fact are requested. The county shall issue a written notice of the decision no later than 120 days after the conclusion of the hearing. If so requested by an applicant or an applicant's agent, the determination shall become final upon issuance of the findings of fact which the county shall issue no later than 180 days after the conclusion of the hearing. Such a request must be made by the applicant or the applicant's agent prior to or at the conclusion of the hearing. If the conclusion of the hearing is within 180 days of the expiration of the two-year period specified in section 1604 of the Revenue and Taxation Code, the applicant shall agree in writing to extend the two-year period. The extension shall be for a period equal to 180 days from the date of the conclusion of the hearing.

(b) The board may request any party to submit proposed written findings of fact and shall provide the other party the opportunity to review and comment on the proposed finding submitted. If both parties prepare proposed findings of fact, no opportunity to review and comment need be provided.

(c) When findings of fact have been prepared, either party or the clerk may submit a written request for clarification about the details of the decision, but such clarification shall not alter the final determination of the board.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended October 6, 1999, effective April 22, 2000.

Rule 326. RECONSIDERATION AND REHEARING.

Reference: Section 1601 et seq., Revenue and Taxation Code.

(a) The decision of the board upon an application is final. The board shall not reconsider or rehear an application or modify a decision unless:

(1) The decision reflects a ministerial clerical error; or

(2) The decision was entered as the result of the applicant's failure to appear for the hearing and within the period established pursuant to regulation 313 of this subchapter, the applicant furnishes evidence establishing, to the satisfaction of the board, excusable good cause of the failure to appear.

History: Adopted May 11, 1967, effective June 11, 1967.
Amended October 6, 1999, effective April 22, 2000.

Rule 370. RANDOM SELECTION OF COUNTIES FOR REPRESENTATIVE SAMPLING

Reference: Sections 15640 and 15643(b), Government Code.
Section 75.60(b)(3), Revenue and Taxation Code.

(a) SURVEY CYCLE. The board shall select at random at least three counties from among all except the 10 largest counties and cities and counties for a representative sampling of assessments in accordance with the procedures contained herein. Counties eligible for random selection will be distributed as equally as possible in a five-year rotation commencing with the local assessment roll for the 1997–98 fiscal year.

(b) RANDOM SELECTION FOR ASSESSMENT SAMPLING. The three counties selected at random will be drawn from the group of counties scheduled in that year for surveys of assessment practices. The scheduled counties will be ranked according to the size of their local assessment rolls for the year prior to the sampling.

(1) If no county has been selected for an assessment sampling on the basis of significant assessment problems as provided in subdivision (c), the counties eligible in that year for random selection will be divided into three groups (small, medium, and large), such that each county has an equal chance of being selected. One county will be selected at random by the board from each of these groups. The board may randomly select an additional county or counties to be included in any survey cycle year. The selection will be done by lot, with a representative of the California Assessors' Association witnessing the selection process.

(2) If one or more counties are scheduled for an assessment sampling in that year because they were found to have significant assessment problems, the counties eligible for random selection will be divided into the same number of groups as there are counties to be randomly selected, such that each county has an equal chance of being selected. For example, if one county is to be sampled because it was found to have significant assessment problems, only two counties will then be randomly

Rule 370. (Contd.)

selected and the pool of eligible counties will be divided into two groups. If two counties are to be sampled because they were found to have significant assessment problems, only one county will be randomly selected and all counties eligible in that year for random selection will be pooled into one group.

(3) Once random selection has been made, neither the counties selected for an assessment sampling nor the remaining counties in the group for that fiscal year shall again become eligible for random selection until the next fiscal year in which such counties are scheduled for an assessment practices survey, as determined by the five-year rotation. At that time, both the counties selected and the remaining counties in that group shall again be eligible for random selection.

(c) ASSESSMENT SAMPLING OF COUNTIES WITH SIGNIFICANT ASSESSMENT PROBLEMS. If the board finds during the course of an assessment practices survey that a county has significant assessment problems as defined in Rule 371, the board shall conduct a sampling of assessments in that county in lieu of conducting a sampling in a county selected at random.

(d) ADDITIONAL SURVEYS. This regulation shall not be construed to prohibit the Board from conducting additional surveys, samples, or other investigations of any county assessor's office.

History: Adopted February 4, 1997, effective May 22, 1997.

Rule 371. SIGNIFICANT ASSESSMENT PROBLEMS

Reference: Section 75.60, Revenue and Taxation Code.
Section 15643, Government Code.

(a) For purposes of Revenue and Taxation Code Section 75.60 and Government Code Section 15643, ''significant assessment problems'' means procedure(s) in one or more areas of an assessor's assessment operation, which alone or in combination, have been found by the Board to indicate a reasonable probability that either:

(1) the average assessment level in the county is less than 95 percent of the assessment level required by statute; or

(2) the sum of all the differences between the board's appraisals and the assessor's values (without regard to whether the differences are underassessments or overassessments), expanded statistically over the assessor's entire roll, exceeds 7.5 percent of the assessment level required by statute.

(b) For purposes of this regulation, ''areas of an assessor's assessment operation'' means, but is not limited to, an assessor's programs for:

(1) Uniformity of treatment for all classes of property.

(2) Discovering and assessing newly constructed property.

Rule 371. (Contd.)

(3) Discovering and assessing real property that has undergone a change in ownership.

(4) Conducting mandatory audits in accordance with Revenue and Taxation Code Section 469 and Property Tax Rule 192.

(5) Assessing open-space land subject to enforceable restriction, in accordance with Revenue and Taxation Code Sections 421 et. seq.

(6) Discovering and assessing taxable possessory interests in accordance with Revenue and Taxation Code Sections 107 et. seq.

(7) Discovering and assessing mineral-producing properties in accordance with Property Tax Rule 469.

(8) Discovering and assessing property that has suffered a decline in value.

(9) Reviewing, adjusting, and, if appropriate, defending assessments for which taxpayers have filed applications for reduction with the local assessment appeals board.

(c) A finding of ''significant assessment problems,'' as defined in this regulation, would be limited to the purposes of Revenue and Taxation Code Section 75.60 and Government Code Section 15643, and shall not be construed as a generalized conclusion about an assessor's practices.

History: Adopted February 4, 1997, effective May 16, 1997.

Rule 460. GENERAL APPLICATION.

Reference: Article XIII A, Sections 1, 2, California Constitution.
Section 110.1, Revenue and Taxation Code.

(a) Sections 1 and 2 of Article XIII A of the Constitution provide for a limitation on property taxes and a procedure for establishing the current taxable value of locally assessed real property by reference to a base year full cash value which is then modified annually to reflect increase in the inflation rate not to exceed two percent per year or declines in value from whatever cause.

(b) The following definitions govern the construction of the terms in the rules pertaining to Sections 1 and 2 of Article XIII A.

(1) BASE YEAR. The assessment year 1975–76 serves as the original base year. Thereafter, any assessment year in which real property, or a portion thereof, is purchased, is newly constructed, or changes ownership shall become the base year used in determining the full value for such real property, or a portion thereof.

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(2) FULL CASH VALUE.

(A) The full cash value of real property means:

1. The "full cash value" as defined in Section 110.1 of the Revenue and Taxation Code, as of the lien date 1975 for properties with a 1975–76 base year, or

2. The "full cash value" as defined in Section 110 of the Revenue and Taxation Code as of the date such real property is purchased, is newly constructed, or changes ownership after the 1975 lien date.

NOTE: The "full cash value" determined pursuant to Section 110 for property, or portions thereof, purchased, newly constructed or which changes ownership shall be enrolled on the next succeeding lien date unless the "full cash value" on that lien date is less, in which case the lien date value shall be enrolled.

(B) If real property has not been appraised to its appropriate base year full cash value, then the assessor shall reappraise such property to its full cash value for the appropriate base year lien date. Such reappraisals may be made at any time, notwithstanding the provisions of Section 405.6 of the Revenue and Taxation Code but 1975–76 base year values must be determined prior to July 1, 1980, except in counties of 4,000,000 population the values must be determined prior to July 1, 1981.

(3) RESTRICTED VALUE. Restricted value means a value standard other than full cash value prescribed by the Constitution or by statute authorized by the Constitution.

(4) FULL VALUE. Full value (appraised value) means either the full cash value or the restricted value.

(5) INFLATION RATE. For each lien date after the lien date in which the base year full value is determined, the full value of real property shall be modified to reflect the percentage change in cost of living, as defined in Section 51 of the Revenue and Taxation Code; provided that such value shall not reflect an increase in excess of 2 percent of the taxable value of the preceding lien date.

(6) TAXABLE VALUE. Taxable value means the base year full value adjusted for any given lien date as required by law or the full cash value for the same lien date, whichever is less.

(7) PROPERTY TAX RATE. The property tax rate is the rate calculated in accordance with the ad valorem tax limitations prescribed by Section 1 of Article XIII A of the Constitution.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Amended January 25, 1979, effective March 1, 1979. Applicable to assessments for 1979 and years thereafter.
Amended August 16, 1979, effective August 22, 1979. Amended (b) (2) (A) 1. and 2. and (B), (b) (6), repealed (b) (7) and renumbered (b) (8) as (b) (7).
Amended August 18, 1982, effective February 10, 1983.
Amended June 25, 1985, effective September 22, 1985. In Section (b)(5) Revenue Section changed from Section 2212 to Section 51.

Rule 461. REAL PROPERTY VALUE CHANGES.

Reference: Article XIII A, Sections 1, 2, California Constitution.

(a) Section 2 of article XIII A of the California Constitution provides, with certain exceptions stated therein, that real property shall be reappraised if purchased, newly constructed (regulation 463) or a change in ownership occurs (regulation 462) after the original base year.

(b) Unless otherwise provided for in this chapter or by statute, real property which was not subject to valuation in a prior base year as required by law shall be appraised at full value for each year it should have been so valued and an escape assessment shall be added to the roll for the current fiscal year or to the roll being prepared at the time of discovery in accordance with the provisions of Section 531.2 of the Revenue and Taxation Code.

(c) The prior year taxable value of real property, or portion thereof, physically removed from the site shall be deducted from the property's prior year taxable value, provided that such net value shall not be less than zero. The net value shall be appropriately adjusted to reflect the percentage change in the cost of living and then compared to the current lien date full value to determine taxable value which shall be the lesser of the two values.

(d) For the fiscal year 1979–80 and fiscal years thereafter the assessor shall prepare an assessment roll containing the base year value appropriately indexed or the current lien date full value, whichever is less. Increases and decreases in full cash value since the previous lien date shall be reflected on the roll except that taxable value shall never exceed base year value appropriately indexed. In preparing such rolls the assessor is not required to make an annual reappraisal of all assessable property.

(e) Declines in value will be determined by comparing the current lien date full value of the appraisal unit to the indexed base year full value of the same unit for the current lien date. Land and improvements constitute an appraisal unit except when measuring declines in value caused by disaster, in which case land shall constitute a separate unit. For purposes of this subsection fixtures and other machinery and equipment classified as improvements constitute a separate appraisal unit.

(f) When the current full value of property is less than its base year full value indexed to the current lien date, the full value shall be enrolled as the current taxable value.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Amended January 25, 1979, effective March 1, 1979. Applicable to assessments for 1979 and years thereafter.
Amended August 16, 1979, effective August 22, 1979.

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Amended November 13, 1979, effective December 6, 1979.
Amended June 25, 1985, effective September 22, 1985.
Amended February 25, 1998, effective June 6, 1998.

Rule 462.001. CHANGE IN OWNERSHIP—GENERAL

Reference: Sections 60–67, Revenue and Taxation Code.

A ''change in ownership'' in real property occurs when there is a transfer of a present interest in the property, including the transfer of the right to beneficial use thereof, the value of which is substantially equal to the value of the fee interest. Every transfer of property qualified as a ''change in ownership'' shall be so regarded whether the transfer is voluntary, involuntary, by operation of law, by grant, gift, devise, inheritance, trust, contract of sale, addition or deletion of an owner, property settlement, or any other means. A change in the name of an owner of property not involving a change in the right to beneficial use is excluded from the term ''transfer'' as used in this section.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended November 13, 1979, effective December 6, 1979.
Amended May 5, 1981, effective August 12, 1981.
Amended March 31, 1982, effective June 10, 1982.
Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462(a).
Amended February 4, 1997, effective June 11, 1997.

Rule 462.020. CHANGE IN OWNERSHIP—TENANCIES IN COMMON.

Reference: Sections 60, 61, 62, 63, 63,1, 65, 65.1, 67, Revenue and Taxation Code. Section 15606, Government Code.

(a) GENERAL RULE. The creation, transfer, or termination of a tenancy in common interest is a change in ownership of the undivided interest transferred.

(b) EXCEPTIONS. The following transfers do not constitute a change in ownership:

(1) The transfer is between or among co-owners and results in a change in the method of holding title but does not result in a change in the proportional interests of the co-owners, such as:

(A) a partition,

(B) a transfer from a co-tenancy to a joint tenancy, or

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(C) a transfer from a co-tenancy to a legal entity which results solely in a change in the method of holding title and in which the proportional ownership interests in the property remain the same after the transfer. (Such transferees shall be considered to be the ''original co-owners'' of the property for purposes of determining whether a change in ownership has occurred upon the subsequent transfers of the ownership interests in the property.)

Example 1: A and B own a parcel of real property as tenants in common each owning a 50% interest. They transfer the property to a newly formed corporation each receiving 50% of the stock. Such a transfer would not be regarded as a change in ownership.

(2) The transfer is of an undivided interest of less than five percent of the value of the total property and has a value of less than $10,000; provided, however, that transfers of such interests during any one assessment year (the period from January 1 through December 31) shall be accumulated for the purpose of determining the percentage interest and value transferred. When the value of the accumulated interests transferred during any assessment year equals or exceeds five percent of the value of the total property or $10,000, then that percentage of the property represented by the transferred accumulated interests shall be reappraised. For purposes of this subsection, the ''accumulated interests transferred'' shall not include any transfer of an interest that is otherwise excluded from change in ownership.

Example 2: At the end of the assessment year the value of the accumulated interests transferred equals 3 percent of the value of the total property and the dollar value of these interests is $12,000. There will be a reappraisal of the transferred accumulated interests because their value exceeds $10,000.

Example 3: At the end of the assessment year the value of the accumulated interests transferred equal 7 percent of the value of the total property and the dollar value of these interests is $9,000. There will be a reappraisal of the transferred accumulated interests because they exceed 5 percent of the value of the total property.

(3) The transfer is one to which the interspousal exclusion applies.

(4) The transfer is one to which the parent-child or grandparent-grandchild exclusion applies, and for which a timely claim has been filed as required by law.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended November 13, 1979, effective December 6, 1979.
Amended May 5, 1981, effective August 12, 1981.
Amended March 31, 1982, effective June 10, 1982.
Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462(b).
Amended October 9, 1997, effective February 20, 1998.

Rule 462.040. CHANGE IN OWNERSHIP—JOINT TENANCIES.

Authority: Section 15606, Government Code.

Reference: Sections 60, 61, 62, 63, 63.1, 65, 65.1, and 67, Revenue and Taxation Code. Section 15606, Government Code.

(a) GENERAL RULE. The creation, transfer, or termination of a joint tenancy interest is a change in ownership of the interest transferred.

Example 1: The purchase of property by A and B, as joint tenants, is a change in ownership of the entire property.

Example 2: The transfer from A and B, as joint tenants, to C and D, as joint tenants, is a change in ownership of the entire property.

Example 3: The subsequent transfer from C and D, as joint tenants, to C, as sole owner, is a change in ownership of 50% of the property.

(b) EXCEPTIONS. The following transfers do not constitute a change in ownership:

(1) The transfer creates or transfers any joint tenancy interest and after such creation or transfer, all transferors are among the joint tenants.

Such transferors who are also transferees in this situation are considered to be ''original transferors'' for purposes of determining the property to be reappraised upon subsequent transfers. If a spouse of an original transferor acquires an interest in the joint tenancy property either during the period that the original transferor holds an interest or by means of a transfer from the original transferor, such spouse shall also be considered to be an original transferor. All other initial and subsequent joint tenants are considered to be ''other than original transferors''.

Example 4: A and B own property as tenants in common and transfer the property to A and B as joint tenants. A and B are not ''original transferors.'' To become original transferors, the transfer must be from A and B to A and B and at least one other person.

Example 5: A and B, as joint tenants, transfer to A, B, C, and D as joint tenants. No change in ownership because A and B, the transferors, are included among the transferees and are, therefore, ''original transferors.'' (C and D are ''other than original transferors.'') Likewise, if A, as the sole owner, had transferred to A, B, C, and D as joint tenants, no change in ownership. A would be an ''original transferor'' and B, C, and D would be ''other than original transferors''.

Example 6: A and B, as joint tenants, transfer to A, B, C, D and E as joint tenants. E is B's wife. No change in ownership because A and B, the transferors, are included among the transferees and are, therefore, ''original transferors.'' E is also an ''original transferor.'' (C and D are ''other than original transferors.'')

Example 7-1: A, B, and C are joint tenants and A is an ''original transferor''. A dies. B and C transfer to B, C, and D as joint tenants. D is A's husband. D does not

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become an original transferor because he did not acquire his interest during the period that A held an interest in the joint tenancy.

Example 7-2: A and B, as joint tenants, transfer to B and C, as joint tenants, and C is A's spouse. C is an original transferor because he was the spouse of an original transferor and he acquired an interest by means of a transfer from A.

Example 7-3: A and B are joint tenants and A is an ''original transferor''. C is A's spouse. A and B as joint tenants transfer to A, B, and C. C is an original transferor.

Example 8: A and B, as joint tenants, transfer to B, C and D, as joint tenants. 66 ⅔% change in ownership of the transferred interests because A is not one of the transferees.

Example 9: A and B transfer to A, B and C as joint tenants and, thereafter, C transfers his or her interest to A and B. Under circumstances where application of the step-transaction doctrine to disregard the form of the transaction would be appropriate, A and B do not become ''original transferors'' as a result of the transfer to A, B and C.

(2) The transfer terminates an original transferor's interest in a joint tenancy described in (b)(1) and the interest vests in whole or in part in the remaining original transferors; except that, upon the termination of the interest of the last surviving original transferor, there shall be a reappraisal of the property as if it had undergone a 100 percent change in ownership.

Example 10: A and B transfer to A, B, C, and D as joint tenants. A dies or grants his interest to the remaining joint tenants, B, C, and D. No change in ownership because B, an original transferor, remains as a joint tenant.

Example 11: Following the example set forth in Example 10 (above), B dies or grants his interest to C and D. 100 percent change in ownership because both A's and B's interests had previously been excluded from reappraisal and B was the last surviving original transferor.

(3) The transfer terminates a joint tenancy interest held by other than an original transferor in a joint tenancy described in (b)(1) and the interest is transferred either to an original transferor, or to all the remaining joint tenants, provided that one of the remaining joint tenants is an original transferor.

Example 12: Following the example set forth in Example 10 (above), C, not an original transferor, grants his interest to B and D. No change in ownership because C grants to the remaining joint tenants, B and D, and B is an original transferor.

(4) For other than joint tenancies described in (b)(1), the transfer is between or among co-owners and results in a change in the method of holding title but does not result in a change in the proportional interests of the co-owners, such as:

(A) a transfer terminating the joint tenancy and creating separate ownerships of the property in equal interests.

(B) a transfer terminating the joint tenancy and creating a tenancy in common of equal interests.

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(C) a transfer terminating a joint tenancy and creating or transferring to a legal entity when the interests of the transferors and transferees remain the same after the transfer. (Such transferees shall be considered to be the ''original co-owners'' for purposes of determining whether a change in ownership occurs upon the subsequent transfer of the ownership interests in the property.)

(5) The transfer is one to which the interspousal exclusion applies.

(6) The transfer is of a joint tenancy interest of less than five percent of the value of the total property and has a value of less than $10,000; provided, however, that transfers of such interests during any one assessment year (the period from January 1 through December 31) shall be accumulated for the purpose of determining the percentage interest and value transferred. When the value of accumulated interests transferred during any assessment year equals or exceeds five percent of the value of the total property or $10,000, then only that percentage of the property represented by the transferred accumulated interests shall be reappraised. For purposes of this subsection, the ''accumulated interests transferred'' shall not include any transfer of an interest that is otherwise excluded from change in ownership.

(7) The transfer is one to which the parent-child or grandparent-grandchild exclusion applies, and for which a timely claim has been filed as required by law.

(c) For purposes of this section, for joint tenancies created on or before March 1, 1975, it is rebuttably presumed that each joint tenant holding an interest in property as of March 1, 1975, shall be an ''original transferor.'' This presumption is not applicable to joint tenancies created after March 1, 1975.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended November 13, 1979, effective December 6, 1979.
Amended May 5, 1981, effective August 12, 1981.
Amended March 31, 1982, effective June 10, 1982.
Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462(c).
Amended October 15, 1998, effective January 29, 1999.
Amended and effective April 3, 2001. Made grammatical change to subsection B(1), Example 5, and Example 8.

Rule 462.060. CHANGE IN OWNERSHIP—LIFE ESTATES AND ESTATES FOR YEARS.

Reference: Sections 60, 61, 62, 63, 67, Revenue and Taxation Code.
Section 15606, Government Code.

(a) LIFE ESTATES. The creation of a life estate in real property is a change in ownership at the time of transfer unless the instrument creating the life estate reserves such estate in the transferor or the transferor's spouse. However, the

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subsequent transfer of such a life estate by the transferor or the transferor's spouse to a third party is a change in ownership. Upon termination of such a reserved life estate, the vesting of a right to possession or enjoyment of a remainderman (other than the transferor or the transferor's spouse) is a change in ownership.

(b) ESTATE FOR YEARS. The creation of an estate for years for a term of 35 years or more in real property is a change in ownership at the time of transfer unless the instrument creating the estate for years reserves such estate in the transferor or the transferor's spouse. However, the subsequent transfer of such an estate for years by the transferor or the transferor's spouse to a third party is a change in ownership. Upon the termination of a reserved estate for years for any term, the vesting of the right to possession or enjoyment of a remainderman (other than the transferor or the transferor's spouse) is a change in ownership. The creation or transfer of an estate for years for less than 35 years is not a change in ownership.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended November 13, 1979, effective December 6, 1979.
Amended May 5, 1981, effective August 12, 1981.
Amended March 31, 1982, effective June 10, 1982.
Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462(d).

Rule 462.080. CHANGE IN OWNERSHIP—POSSESSORY INTERESTS.

Reference: Section 60, 61, 62, 67, Revenue and Taxation Code.
Section 15606, Government Code.

(a) GENERAL RULE. The creation, renewal, extension, sublease, or assignment of a taxable possessory interest in tax exempt real property for any term is a change in ownership. ''Renewal'' and ''extension'' do not include the granting of an option to renew or extend an existing agreement pursuant to which the term of possession of the existing agreement would, upon exercise of the option, be lengthened, whether the option is granted in the original agreement or subsequent thereto. ''Assignment'' of a possessory interest means the transfer of all rights held by a transferor in a possessory interest.

(b) EXCEPTIONS. The following do not constitute changes in ownership of taxable possessory interests:

(1) An interest, whether an estate for years or an estate for life, created by a reservation in an instrument deeding the property to a tax exempt governmental entity.

(2) Any renewal or extension of a taxable possessory interest during the reasonable anticipated term of possession used by the assessor in establishing the

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initial base year value of the interest, in which case, a change in ownership occurs at the end of the reasonably anticipated term of possession used by the assessor to value that interest.

(3) A sublease of a taxable possessory interest for a term including renewal options, that does not exceed half the length of the remaining term of the leasehold, including renewal options.

(4) The termination of a sublease of a taxable possessory interest with an original term, including renewal options, that did not exceed half the length of the remaining term of the leasehold, including renewal options, when the sublease was entered into.

(5) Any transfer of a sublessess's interest in a taxable possessory interest, with a remaining term, including renewal options, that does not exceed half of the remaining term of the leasehold.

(6) Any transfer of a taxable possessory interest subject to a sublease with a remaining term, including renewal options, that exceeds half the length of the remaining term of the leasehold, including renewal options.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended November 13, 1979, effective December 6, 1979.
Amended May 5, 1981, effective August 12, 1981.
Amended March 31, 1982, effective June 10, 1982.
Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462(e).
Amended February 4, 1997, effective June 11, 1997.

Rule 462.100. CHANGE IN OWNERSHIP—LEASES.

Reference: Sections 60, 61, 62, 67, Revenue and Taxation Code.
Section 15606, Government Code.

(a) The following transfers of either the lessee's interest or the lessor's interest in taxable real property constitute a change in ownership of such real property:

(1) Lessee's Interest:

(A) the creation of a leasehold interest in real property for a term of 35 years or more.

(B) the transfer, sublease, or assignment of a leasehold interest with a remaining term of 35 years or more.

(C) the termination of a leasehold interest which had an original term of 35 years or more.

(2) Lessor's Interest:

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(A) The transfer of a lessor's interest in taxable real property subject to a lease with a remaining term of less than 35 years.

(B) The transfer of a lessor's interest in taxable real property subject to multiple leases, one or more of which is for a remaining term of less than 35 years and one or more of which is for a remaining term of 35 years or more, in which case there is a change in ownership of the portion of the property subject to the lease(s) with a remaining term of less than 35 years.

(b) The following transfers of either the lessee's interest or the lessor's interest in taxable real property do not constitute a change in ownership of such real property.

(1) Lessee's interest:

(A) The creation of a leasehold interest in real property for a term of less than 35 years.

(B) The transfer, sublease, or assignment of a leasehold interest with a remaining term of less than 35 years (regardless of the original term of the lease).

(C) The termination of a leasehold interest which had an original term of less than 35 years.

(2) Lessor's interest:

(A) The transfer of a lessor's interest in real property subject to a lease with a remaining term of 35 years or more, whether to the lessee or another party.

(c) Once a change in ownership of taxable real property subject to a lease has been deemed to have occurred, the entire property subject to the lease is reappraised (i.e., the value of both the lessee's interest and the reversion).

(d) The calculation of the term of a lease for all purposes of this section shall include written renewal options.

(e) It shall be conclusively presumed that all homes (other than mobilehomes subject to Part 13 of Division 1 of the Revenue and Taxation Code) eligible for the homeowners' exemption which are on leased land have written renewal options on the lease of such land of at least 35 years, whether or not such renewal options in fact exist in any contract or agreement.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended November 13, 1979, effective December 6, 1979.
Amended May 5, 1981, effective August 12, 1981.
Amended March 31, 1982, effective June 10, 1982.
Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462(f).

Rule 462.120. CHANGE IN OWNERSHIP—FORECLOSURE.

Reference: Sections 60, 62, Revenue and Taxation Code.
Section 15606, Government Code.

(a) Mortgage or deed of trust foreclosed by judicial action is a sufficient change in ownership only:

(1) After the period of redemption has passed and property has not been redeemed, or

(2) Upon redemption when title vests in the original debtor's successor in interest.

(b) Deed of trust foreclosed by trustee's sale shall cause a reappraisal as of the date the right of possession vests in the purchaser.

(c) A transfer by a trustor in lieu of a trustee's foreclosure sale constitutes a change in ownership.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended November 13, 1979, effective December 6, 1979.
Amended May 5, 1981, effective August 12, 1981.
Amended March 31, 1982, effective June 10, 1982.
Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462(g).

Rule 462.140. CHANGE IN OWNERSHIP—TRANSFERS RESULTING FROM TAX DELINQUENCY.

Reference: Section 60, Revenue and Taxation Code.
Section 15606, Government Code.

Redemption of tax-defaulted property by the assessee shall not be considered as a change in ownership. However, a sale of tax-defaulted property by the tax collector, whether to the former assessee or to any other person, is a change in ownership requiring reappraisal as of the date of the sale.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended November 13, 1979, effective December 6, 1979.
Amended May 5, 1981, effective August 12, 1981.
Amended March 31, 1982, effective June 10, 1982.
Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462(h).
Amended February 4, 1997, effective June 11, 1997.

Rule 462.160. CHANGE IN OWNERSHIP—TRUSTS.

Reference: Section 60, 61, 62, 63, 63.1 note, and 64, Revenue and Taxation Code. Section 15606, Government Code.

(a) CREATION. General Rule. The transfer by the trustor, or any other person, of real property into a trust is a change in ownership of such property at the time of the transfer.

(b) EXCEPTIONS. The following transfers do not constitute changes in ownership:

(1) Irrevocable Trusts.

(A) Trustor-Transferor Beneficiary Trusts. The transfer of real property by the trustor to a trust in which the trustor-transferor is the sole present beneficiary of the trust. However, a change in ownership of trust property does occur to the extent that persons other than the trustor-transferor are or become present beneficiaries of the trust unless otherwise excluded from change in ownership.

Example 1: M transfers income-producing real property to revocable living Trust A, in which M is the sole present beneficiary. Trust A provides that upon M's death, Trust A becomes irrevocable, M's brother B becomes a present beneficiary, and income from the trust property is to be distributed to B for his lifetime. Upon M's death, 100%of the property in Trust A, representing B's present beneficial interest, undergoes a change in ownership.

Where a trustee of an irrevocable trust has total discretion (''sprinkle power'') to distribute trust income or property to a number of potential beneficiaries, the property is subject to change in ownership, because the trustee could potentially distribute it to a non-excludable beneficiary, unless all of the potential beneficiaries have an available exclusion from change in ownership.

Example 2: H and W transfer real property interests to the HW Revocable Trust. No change in ownership. HW Trust provides that upon the death of the first spouse the assets of the deceased spouse shall be distributed to ''A Trust'', and the assets of the surviving spouse shall be distributed to ''B Trust'', of which surviving spouse is the sole present beneficiary. H dies and under the terms of A Trust, W has a ''sprinkle'' power for the benefit of herself, her two children and her nephew. When H dies, A Trust becomes irrevocable. There is a change in ownership with respect to the interests transferred to the A Trust because the sprinkle power may be exercised so as to omit the spouse and children as present beneficiaries for whom exclusions from change in ownership may apply, and there are no exclusions applicable to the nephew. However, if the sprinkle power could be exercised only for the benefit of W and her children for whom exclusions are available, the interspousal exclusion and the parent/child exclusion would exclude the interests transferred from change in ownership, provided that all qualifying requirements for those exclusions are met.

Example 3: Same as Example 2 above, except that ''A Trust'' is without any sprinkle power. When H dies, A Trust becomes irrevocable. Since A Trust holds the assets for the benefit of W, the two children, and the nephew in equal shares, with any of W's share remaining at her death to be distributed to the two children and the

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nephew in equal shares, there is a change in ownership only to the extent of the interests transferred to the nephew, providing that the parent/child exclusion of Section 63.1 and the interspousal exclusion of Section 63 apply to the interests transferred to the two children and to W respectively. Upon the death of W, there is a change in ownership to the extent of the interests transferred to the nephew, although the parent/child exclusion of Section 63.1 may exclude from change in ownership the interests transferred to the two children. If A Trust had included a sprinkle power, instead of specifying the beneficiaries of the trust income and principal, then as in Example 2, none of the exclusions would apply.

(B) 12 Year Trustor Reversion Trusts. The transfer of real property or ownership interests in a legal entity holding interests in real property by the trustor to a trust in which the trustor-transferor retains the reversion, and the beneficial interest of any person other than the trustor-transferor does not exceed 12 years in duration.

(C) Irrevocable Trusts Holding Interests in Legal Entities. The transfer of an ownership interest in a legal entity holding an interest in real property by the trustor into a trust in which the trustor-transferor is the sole present beneficiary or to a trust in which the trustor-transferor retains the reversion as defined in subdivision (b)(1)(B) of this rule. However, a change in ownership of the real property held by the legal entity does occur if Revenue and Taxation Code section 61(i), 64(c) or 64(d) applies because the change in ownership laws governing interests in legal entities are applicable regardless of whether such interests are held by a trust.

Example 4: Husband and Wife, partners in HW Partnership who are not original coowners, transfer 70 percent of their partnership interests to HW Irrevocable Trust and name their four children as the present beneficiaries of the trust with equal shares. Husband and Wife do not retain the reversion. Under Revenue and Taxation Code section 64(a) the transfer of the partnership interests to HW Irrevocable Trust is excluded from change in ownership because no person or entity obtains a majority ownership interest in the HW Partnership.

(2) Revocable Trusts. The transfer of real property or an ownership interest in a legal entity holding an interest in real property by the trustor to a trust which is revocable by the trustor. However, a change in ownership does occur at the time that a revocable trust becomes irrevocable unless the trustor-transferor remains or becomes the sole present beneficiary or unless otherwise excluded from change in ownership.

(3) Interspousal Trusts. The transfer is one to which the interspousal exclusion applies. However, a change in ownership of trust property does occur to the extent that persons other than the trustor-transferor's spouse are or become present beneficiaries of the trust unless otherwise excluded from change in ownership.

(4) Parent-Child or Grandparent-Grandchild Trusts. The transfer is one to which the parent-child or grandparent-grandchild exclusion applies, and for which a timely claim has been made as required by law. However, a change in ownership of trust property does occur to the extent that persons for whom the parent-child or grandparent-grandchild exclusion is not applicable are or become present beneficiaries of the trust unless otherwise excluded from change in ownership.

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(5) Proportional Interests. The transfer is to a trust which results in the proportional interests of the beneficiaries in the property remaining the same before and after the transfer.

(6) Other Trusts. The transfer is from one trust to another and meets the requirements of (1), (2), (3), (4), or (5).

(c) TERMINATION. General Rule. The termination of a trust, or portion thereof, constitutes a change in ownership at the time of the termination of the trust.

(d) EXCEPTIONS. The following transfers do not constitute changes in ownership:

(1) Prior Change in Ownership. Termination results in the distribution of trust property according to the terms of the trust to a person or entity who received a present interest (either use of or income from the property) when the trust was created, when it became irrevocable, or at some other time. However, a change in ownership also occurs when the remainder or reversionary interest becomes possessory if the holder of that interest is a person or entity other than the present beneficiary unless otherwise excluded from change in ownership.

Example 5: B transfers real property to Trust A and is the sole present beneficiary. Trust A provides that when B dies, the Trust terminates and Trust property is to be distributed equally to R and S ,who are unrelated to B. B dies, Trust A terminates, and the transfers of the Trust property to R and S result in changes in ownership, allowing for reassessment of 100 percent of the real property.

(2) Revocable Trusts. Termination results from the trustor-transferor's exercise of the power of revocation and the property is transferred by the trustee back to the trustor-transferor.

(3) Trustor Reversion Trusts. The trust term did not exceed 12 years in duration and, on termination, the property reverts to the trustor-transferor.

(4) Interspousal Trusts. Termination results in a transfer to which the interspousal exclusion applies.

(5) Parent-Child or Grandparent-Grandchild Trusts. Termination results in a transfer to which the parent-child or grandparent-grandchild exclusion applies, and for which a timely claim has been filed as required by law.

(6) Proportional Interests. Termination results in the transfer to the beneficiaries who receive the same proportional interests in the property as they held before the termination of the trust.

(7) Other Trusts. Termination results in the transfer from one trust to another and meets the requirements of (1), (2), (3), (4), (5), or (6) of subdivision (b).

(e) For purposes of this rule, the term ''trust'' does not include a Massachusetts business trust or similar trust, which is taxable as a legal entity and managed for profit for the holders of transferable certificates which, like stock shares in a

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corporation, entitle the holders to share in the income of the property. For rules applicable to Massachusetts business trusts or similar trusts, see Section 64 of the Revenue and Taxation Code and Rule 462.180, which address legal entities.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended November 13, 1979, effective December 6, 1979.
Amended May 5, 1981, effective August 12, 1981.
Amended November 16, 1994, effective December 16, 1994. Renumbered, formerly 462(i).
Amended September 10, 1997, effective February 20, 1998.

Rule 462.180. CHANGE IN OWNERSHIP—LEGAL ENTITIES.

Reference: Sections 60, 61, 62, 63, 64, and 67, Revenue and Taxation Code; Sections 16909 and 17554, Corporations Code; and Section 1351, Civil Code.

(a) TRANSFERS OF REAL PROPERTY TO AND BY LEGAL ENTITIES.

General Rule. The transfer of any interest in real property to a corporation, partnership, limited liability company, or other legal entity is a change in ownership of the real property interest transferred. For purposes of this rule, ''real property'' or ''interests in real property'' includes real property interests and fractional interests thereof, the transfer of which constitute a change in ownership under Sections 60 and following applicable sections of the Revenue and Taxation Code and under the applicable change in ownership provisions of the Property Tax Rules.

(b) EXCEPTIONS. The following transfers do not constitute changes in ownership of the real property:

(1) Affiliated Corporation Transfers. Transfers of real property between or among affiliated corporations, including those made to achieve a corporate reorganization if:

(A) the voting stock of the corporation making the transfer and the voting stock of the transferee corporation are each owned 100 percent by one or more corporations related by voting stock ownership to a common parent, and

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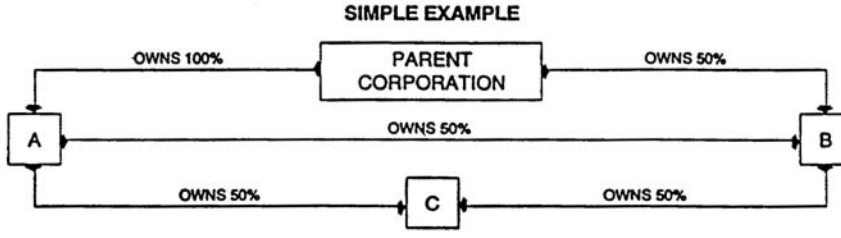
(B) the common parent corporation owns directly 100 percent of the voting stock of at least one corporation in the chain(s) of related corporations.



A transfer of real property by P, A, B, or C to any of the other three corporations would not be a change in ownership.

Example 1: Any transfer by C (wholly owed by A and B) to B (wholly owned by A and P) would not be a change in ownership because of those relationships and because P owns 100% of A.

If real property is transferred between non-affiliated corporations, only the property transferred shall be deemed to have undergone a change in ownership.

(2) Proportional Transfers of Real Property. Transfers of real property between separate legal entities or by an individual to a legal entity (or vice versa), which result solely in a change in the method of holding title and in which the proportional ownership interests in each and every piece of real property transferred remain the same after the transfer. (The holders of the ownership interests in the transferee legal entity, whether such interests are represented by stock, partnership interests, or other types of ownership interest, shall be defined as ''original co-owners'' for purposes of determining whether a change in ownership has occurred upon the subsequent transfer of the ownership interests in the legal entity.) This subdivision shall not apply to a transfer of real property which is also excluded from change in ownership pursuant to subdivision (b)(1) (transfers between or among affiliated corporations).

Examples of Transfers of Real Property in Legal Entities:

Example 2: A transfer of real property from A and B, as equal co-tenants, to Corporation X where A and B each take back 50 percent of the stock. No change in ownership. However, if A and B each take back 49 percent of the stock and C receives 2 percent of the stock then there will be a change in ownership of the entire property.

Example 3: A transfers Whiteacre to Corporation X and B transfers Blackacre (equal in value to Whiteacre) to Corporation X. A and B each take back 50 percent of the stock. Change in ownership of 100 percent of both Whiteacre and Blackacre.

Example 4: Corporation X owns Blackacre and Whiteacre (both are of equal value). A and B each own 50% of Corporation X's shares. X transfers Whiteacre to A and Blackacre to B. Change in ownership of 100% of both Blackacre and

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Whiteacre. However, if Corporation X transfers Whiteacre and Blackacre to both A and B as joint tenants or as equal tenants in common, there is no change in ownership.

Example 5: A transfer of real property from Corporation X to its sole shareholder A. No change in ownership, even if A is an ''original co-owner'', because interests in real property, and not ownership interests in a legal entity, are being transferred.

(c) TRANSFERS OF OWNERSHIP INTERESTS IN LEGAL ENTITIES.

General Rule. The purchase or transfer of corporate stock, partnership interests, or ownership interests in other legal entities is not a change in ownership of the real property of the legal entity, pursuant to Section 64(a) of the Revenue and Taxation Code.

(d) EXCEPTIONS. The following transfers constitute changes in ownership, except as provided in (d)(4) which is an exclusion from change in ownership:

(1) Control. When any corporation, partnership, limited liability company, Massachusetts business trust or similar trust, other legal entity or any person:

(A) obtains through a reorganization or any transfer, direct or indirect ownership or control of more than 50 percent of the voting stock in any corporation which is not a member of the same affiliated group of corporations as described in (b)(1), or

(B) obtains through multi-tiering, reorganization, or any transfer direct or indirect ownership of more than 50 percent of the total interest in partnership capital and more than 50 percent of the total interest in partnership profits, or

(C) obtains through any transfer direct or indirect ownership of more than 50 percent of the total ownership interest in any other legal entity.

Upon the acquisition of such direct or indirect ownership or control, which may include any purchase or transfer of 50 percent or less of the ownership interest through which control or a majority ownership interest is obtained, all of the property owned directly or indirectly by the acquired legal entity is deemed to have undergone a change in ownership.

(2) Transfers of More Than 50 Percent. When on or after March 1, 1975, real property is transferred to a partnership, corporation, limited liability company, or other legal entity and the transfer is excluded from change in ownership under Section 62(a)(2) of the Revenue and Taxation Code, and the ''original co-owners'' subsequently transfer, in one or more transactions, cumulatively more than 50 percent of the total control or ownership interests, as defined in subdivision (d)(1), in that partnership, corporation, limited liability company or legal entity, there is a change in ownership of only that property owned by the entity which was previously excluded under Section 62(a)(2). However, when such transfer would also result in a change in control under Section 64(c) of the Revenue and Taxation Code, then reappraisal of the property owned by the corporation, partnership, limited liability company, or other legal entity shall be pursuant to Section 64(c) rather than Section 64(d).

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For purposes of this subdivision ((d)(2)), interspousal transfers excluded under Section 63 of the Revenue and Taxation Code, transfers into qualifying trusts excluded under Section 62(d) of the Revenue and Taxation Code, and proportional transfers excluded under Section 62(a)(2) of the Revenue and Taxation Code shall not be cumulated or counted to determine a change in ownership.

Examples of Transfers of Interests in Legal Entities:

Example 6: A and B each own 50 percent of the stock of Corporation X. Corporation X acquires Whiteacre from Corporation Y, an unaffiliated corporation in which neither A nor B has interests, and Whiteacre is reappraised upon acquisition. A transfers 30 percent of Corporation X's stock to C, and B later transfers 25 percent of Corporation X's stock to C. Upon C's acquisition of 55 percent of Corporation X's stock, there is a change in control of Corporation X under Section 64(c) and a reappraisal of Whiteacre.

Example 7: A and B, hold equal interests as tenants in common in Greenacre, a parcel of real property. A and B transfer Greenacre to Corporation Y and in exchange A and B each receive 50 percent of the corporate stock. No change in ownership pursuant to Section 62(a)(2). Pursuant to Section 64(d), A and B become original coowners. A transfers 30 percent of Corporation Y's stock to C (A's child), and B then transfers 25 percent of Corporation Y's stock to D (B's grandchild). Change in ownership of Greenacre upon B's transfer to D. Parent/child and grandparent/grandchild exclusions are not applicable to transfers of interests in legal entities. However, if the same transfers were made by A and B to their respective spouses, no change in ownership pursuant to Section 63 and Rule 462.220.

(3) Cooperative Housing Corporation. When the stock transferred in a cooperative housing corporation (''stock cooperative'' as defined in subdivision (m) of Section 1351 of the Civil Code) conveys the exclusive right to occupancy of all or part of the corporate property, unless:

(A) the cooperative was financed under one mortgage which was insured under Sections 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or was financed or assisted pursuant to Sections 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or was financed by a direct loan from the California Housing Finance Agency, and

(B) the regulatory and occupancy agreements were approved by the respective insuring or lending agency, and

(C) the transfer is from the housing cooperative to a person or family qualifying for purchase by reason of limited income.

(4) Proportional Interest Transfers. Transfers of stock, partnership interests, limited liability company interests, or any other interests in legal entities between legal entities or by an individual to a legal entity (or vice versa) which result solely in a change in the method of holding title and in which proportional ownership interests of the transferors and transferees, in each and every piece of property represented by the interests transferred, remain the same after the transfer, do not constitute changes in ownership, as provided in subdivision (b)(2) of this rule and

Rule 462.180. (Contd.)

Section 62(a)(2) of the Revenue and Taxation Code. This provision shall not apply to a statutory conversion or statutory merger of a partnership into a limited liability company or other partnership (or a limited liability company into a partnership) when the law of the jurisdiction of the converted or surviving entity provides that such entity remains the same entity or succeeds to the assets of the converting or disappearing entity without other act or transfer and the partners or members of the converting or disappearing entity maintain the same ownership interest in profits and capital of the converted or surviving entity that they held in the converting or disappearing entity.

Examples of Excluded Proportional Interest Transfers:

Example 8: General Partnership (GP), which owns Whiteacre and in which A and B hold equal partnership interests, converts to Limited Partnership (LP) under the Revised Uniform Partnership Act of 1994 (California Corporations Code section 16100 et seq.). As a result of the conversion, A and B each hold 50 percent of the LP interests in capital and profits. No change in ownership of Whiteacre upon the conversion, because, under Section 16909 of the Corporations Code, there is no transfer of Whiteacre. Section 62(a)(2) of the Revenue and Taxation Code does not apply. However, if A and B were ''original coowners'' in GP, they remain ''original coowners'' in LP.

Example 9: Following the conversion in Example 8, A and B each transfer 30 percent of their capital and profits interests in LP to Limited Liability Company (LLC), which is owned equally by A and B. Each retain an equal 20 percent interest in LP. No change in ownership of Whiteacre pursuant to Section 62(a)(2) because A and B own 100 percent of both LP and LLC and their respective proportional interests remain the same after the transfer. Neither section 64(c) nor section 64(d) of the Revenue and Taxation Code applies to this transfer, although A and B become ''original coowners'' with respect to their interests in LLC.

Example 10: A limited partnership (LP), which owns Blackacre and in which C and D hold equal partnership interests, changes its form to a limited liability company (LLC), in which C and D hold equal membership interests, by statutory merger under the California Revised Limited Partnership Act (California Corporations Code section 15611 et seq.) and the Beverly-Killea Limited Liability Company Act (California Corporations Code section 17000 et seq.). No change in ownership of Blackacre upon the change in form because under section 17554 of the California Corporations Code, there is not a transfer of property from LP to LLC. Section 62(a)(2) of the Revenue and Taxation Code does not apply. However, if C and D were ''original coowners'' in LP, they remain ''original coowners'' in LLC.

(e) PARTNERSHIPS.

(1) Transfers of Real Property By Partnerships.

General Rule. Except as provided by (b)(2) where the proportional ownership interests remain the same, when real property is contributed to a partnership or is acquired, by purchase or otherwise, by the partnership there is a change in ownership of such real property, regardless of whether the title to the property is held in the

Rule 462.180. (Contd.)

name of the partnership or in the name of the partners with or without reference to the partnership. Except as provided by (b)(2) where the proportional ownership interests remain the same, the transfer of any interest in real property by a partnership to a partner or any other person or entity constitutes a change in ownership.

(2) Except as provided in (d)(1)(B) and (d)(2), the addition or deletion of partners in a continuing partnership does not constitute a change in ownership of partnership property.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended November 13, 1979, effective December 6, 1979. Amended (a), (b) (5), (e) (3), (f) (2), (h) (2) (C), (j) (1) (B), and (j) (2); renumbered (b) (6) to (b) (7); and adopted (b) (6), and (h) (2) (D).
Amended May 5, 1981, effective August 12, 1981.
Amended March 31, 1982, effective June 10, 1982.
Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462(j).
Amended and effective December 19, 1995.
Amended December 9, 1998, effective April 8, 1999.

Rule 462.200. CHANGE IN OWNERSHIP—MISCELLANEOUS ARRANGEMENTS.

Reference: Sections 60, 62, 67, Revenue and Taxation Code.
Section 1105, Civil Code; Section 662, Evidence Code.
Section 15606, Government Code.

(a) SECURITY TRANSACTIONS. There are transactions that may be interpreted to be either a conveyance of the property or a mere security interest therein, depending on the facts. There is a rebuttable presumption under Civil Code Section 1105 and Evidence Code Section 662 that a grant of title to real property is a transfer of a present interest in the real property, including the beneficial use thereof, equal to a fee interest. In overcoming this presumption, consideration may be given to, but not limited to, the following factors:

(1) The existence of a debt or promise to pay.

(2) The principal amount to be paid for reconveyance is the same, or substantially the same, as the amount paid for the original deed.

(3) A great inequality between the value of the property and the price alleged to have been paid.

(4) The grantor remaining in possession with the right to reconveyance on payment of the debt; and

(5) A written agreement between the parties to reconvey the property upon payment of the debt.

Rule 462.200. (Contd.)

The best evidence of the existence of any factor shall be an adjudication of the existence of the factor reflected in a final judicial finding, order, or judgment. Proof may also be made by declarations under penalty of perjury (or affidavits) accompanied by such written evidence as may reasonably be available, such as written agreements, canceled checks, insurance policies, and tax returns.

(b) DEED PRESUMPTION. When more than one person's name appears on a deed, there is a rebuttable presumption that all persons listed on the deed have ownership interests in property, unless an exclusion from change in ownership applies.

In overcoming this presumption, consideration may be given to, but not limited to, the following factors:

(1) The existence of a written document executed prior to or at the time of the conveyance in which all parties agree that one or more of the parties do not have equitable ownership interests.

(2) The monetary contribution of each party. The best evidence of the existence of any factor shall be an adjudication of the existence of the factor reflected in a final judicial finding, order, or judgment. Proof may also be made by declarations under penalty of perjury (or affidavits) accompanied by such written evidence as may reasonably be available, such as written agreements, canceled checks, insurance policies, and tax returns.

(c) HOLDING AGREEMENTS. A holding agreement is an agreement between an owner of the property, hereinafter called a principal, and another entity, usually a title company, that the principal will convey property to the other entity merely for the purposes of holding title. The entity receiving title can have no discretionary duties but must act only on explicit instructions of the principal. The transfer of property to the holder of title pursuant to a holding agreement is not a change in ownership. There shall be no change in ownership when the entity holding title pursuant to a holding agreement conveys the property back to the principal.

(1) There shall be a change in ownership for property subject to a holding agreement when there is a change of principals.

(2) There shall be a change in ownership of property subject to a holding agreement if the property is conveyed by the holder of title to a person or entity other than the principal.

(d) SALE AND LEASEBACK. There is a rebuttable presumption under Civil Code 1105 and Evidence Code 662 that a sale of real property, coupled with a leaseback, is a transfer of the present interest, including the beneficial use thereof, equal to a fee interest which constitutes a change in ownership of such property. This presumption may be rebutted by a proper written showing by the property owner, such as a written opinion or ruling by the Franchise Tax Board and/or Internal Revenue Service, to the effect that the transaction is considered to be a financing transaction for state and/or federal income tax purposes.

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History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended November 13, 1979, effective December 6, 1979.
Amended May 5, 1981, effective August 12, 1981.
Amended March 31, 1982, effective June 10, 1982.
Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462(k).
Amended March 19, 1997, effective June 11, 1997.

Rule 462.220. CHANGE IN OWNERSHIP—INTERSPOUSAL TRANSFERS.

Reference: Sections 60, 61, 62, 63, 64, 65, 65.1, 67, Revenue and Taxation Code.
Section 15606, Government Code.

Notwithstanding any other provision of Rules 460 through 471, a change in ownership shall not include any interspousal transfer, including, but not limited to:

(a) Transfers of ownership interests in legal entities,

(b) Transfers of ownership interests in legal entities resulting in one spouse obtaining control as defined in Section 64(c) of the Revenue and Taxation Code,

Example 1: Husband (H) owns a 30 percent ownership interest in a partnership and wife (W) owns a 30 percent ownership interest in the same partnership. W transfers her interest to H; H now owns a 60 percent ownership interest. There is no change in ownership.

(c) Transfers of ownership interests in legal entities by ''original coowners'' which would otherwise be cumulated or counted for purposes of Section 64(d) of the Revenue and Taxation Code.

Example 2: Spouses H and W are ''original coowners'' of a partnership; each originally owned a 50 percent partnership interest. They have previously each transferred a 10 percent interest to X and to Y, leaving H and W each with a 30 percent partnership interest. W transfers a 15 percent interest to H. Although cumulatively more than 50 percent has been transferred, there is no change in ownership.

(d) Transfers to a trustee for the beneficial use of a spouse, or the surviving spouse of a deceased transferor, or by a trustee of such a trust to the spouse of the trustor,

(e) Transfers which take effect upon the death of a spouse,

Example 3: H and W each own a 30 percent interest in General Partnership (GP). H and W transfer their respective partnership interests to the HW Revocable Trust. No change in ownership. Trust provides that upon the death of the first spouse: the assets of the deceased spouse, including partnership interests in GP, shall be

Rule 462.220. (Contd.)

distributed to ''A Trust'', and the assets of the surviving spouse, including partnership interests in GP, shall be distributed to ''B Trust.'' Surviving spouse is the sole present beneficiary of both A Trust and B Trust. No change in ownership upon the death of the first spouse.

(f) Transfers to a spouse or former spouse in connection with a property settlement agreement, including post-dissolution amendment thereto, or decree of dissolution of a marriage or legal separation,

(g) The creation, transfer, or termination, solely between spouses, of any co-owner's interest, or

(h) The distribution of property of a corporation, partnership, or other legal entity to a spouse or former spouse having an ownership interest in the entity, in exchange for the interest of such spouse in the legal entity in connection with a property settlement agreement or decree of dissolution of a marriage or legal separation.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended November 13, 1979, effective December 6, 1979.
Amended May 5, 1981, effective August 12, 1981.
Amended March 31, 1982, effective June 10, 1982.
Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462(*l*).
Amended September 10, 1997, effective January 20, 1998.

Rule 462.240. THE FOLLOWING TRANSFERS DO NOT CONSTITUTE A CHANGE IN OWNERSHIP:

Reference: Sections 60, 61, 62, 62.1, 62.2, 64, 66, 67, Revenue and Taxation Code.
Section 15606, Government Code.

The following transfers do not constitute a change in ownership:

(a) The transfer of bare legal title, e.g.,

(1) Any transfer to an existing assessee for the purpose of perfecting title to the property.

(2) Any transfer resulting in the creation, assignment, or reconveyance of a security interest not coupled with the right to immediate use, occupancy, possession or profits.

(b) Any transfer caused by the substitution of a trustee.

(c) Any purchase, redemption or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

Rule 462.240. (Contd.)

(d) Any contribution of real property to an employee benefit plan, any acquisition by an employee benefit plan of the stock of the employer corporation pursuant to which the employee benefit plan obtains direct or indirect ownership or control of more than 50 percent of the voting stock in the employer corporation, or the creation, vesting, transfer, distribution, or termination of a participant's or beneficiary's interest in such a plan. The terms used herein shall have the meaning ascribed to them in the Employee Retirement Income Security Act of 1974, which is codified as United States Code annotated, Title 29, Section 1002. (The term ''any contribution'' as used in Section 66 (b) of the Revenue and Taxation Code and this section means only those contributions of real property made to an employee benefit plan by an employer, a group of employees, or both, without any consideration.)

(e) Any transfer of property or an interest therein between a corporation sole, a religious corporation, a public benefit corporation, and a holding corporation as defined in Section 23701h of the Revenue and Taxation Code holding title for the benefit of any of the aforementioned corporations, or any combination thereof (including any transfer from one such entity to the same type of entity), provided that both the transferee and the transferor are regulated by laws, rules, regulations, or canons of the same religious denomination.

(f) Any transfer, occurring on or after January 1, 1983, which results from the reformation or correction of a deed which, by mistake, inaccurately describes the property intended to be conveyed, or adds or omits some term not agreed to by the parties, or in some other manner fails to express the true intentions of the parties.

Example 1: A agrees to sell one acre to B. The deed mistakenly describes a two-acre area. Reformation of the deed to describe the original acre intended to be transferred is not a change in ownership.

(g) Any transfer, occurring on or after January 1, 1983, of an eligible dwelling unit from a parent or legal guardian to a minor child or children or among minor siblings, or to a trust for the sole benefit of such persons, resulting from a court order or judicial decree due to the death of one or both of the parents. An ''eligible dwelling unit'' means the dwelling which was the principal place of residence of the minor child or children prior to the transfer and remains such after the transfer.

(h) Any transfer of property to a disabled child or ward, whether minor or adult, or to a trust for the sole benefit of such person, upon the death of a parent or guardian pursuant to Section 62(n) of the Revenue and Taxation Code.

(i) Any transfer, on or after January 1, 1985, of a mobilehome park or of rental spaces in a mobilehome park pursuant to Section 62.1 of the Revenue and Taxation Code.

(j) Any transfer of a mobilehome park or of rental spaces in a mobilehome park pursuant to Section 62.2 of the Revenue and Taxation Code.

Rule 462.240. (Contd.)

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended November 13, 1979, effective December 6, 1979.
Amended May 5, 1981, effective August 12, 1981.
Amended March 31, 1982, effective June 10, 1982.
Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462(m).
Amended September 10 1997, effective January 20, 1998.

Rule 462.260. DATE OF CHANGE IN OWNERSHIP.

Reference: Sections 60, 61, 62, 63, 67, Revenue and Taxation Code.
Section 15606, Government Code.

For purposes of reappraising real property as of the date of change in ownership of real property, the following dates shall be used:

(a) SALES.

(1) Where the transfer is evidenced by recordation of a deed or other document, the date of recordation shall be rebuttable presumed to be the date of ownership change. This presumption may be rebutted by evidence proving a different date to be the date all parties' instructions have been met in escrow or the date the agreement of the parties became specifically enforceable.

(2) Where the transfer is accomplished by an unrecorded document, the date of the transfer document shall be rebuttable presumed to be the date of ownership change. This presumption may be rebutted by evidence proving a different date to be the date all parties' instructions have been met in escrow or the date the agreement of the parties became specifically enforceable.

(b) LEASES. The date the lessee has the right to possession.

(c) INHERITANCE (by will or intestate succession). The date of death of the decedent.

(d) Trusts.

(1) Revocable. The date the trust becomes irrevocable.

Example 1: A creates an inter vivos revocable trust that becomes irrevocable upon A's death. The date of change in ownership is the date of A's death.

(2) Irrevocable.

(A) The date the property is placed in trust.

Example 2: A transfers to an irrevocable testamentary trust. The date of change in ownership is the date of A's death.

Rule 462.260. (Contd.)

Example 3: A transfers to an irrevocable inter vivos trust. The date of change in ownership is the date of the transfer.

(B) The effective date of the immediate right to present possession or enjoyment of a remainder or reversion occurs upon the termination of a life estate or other precedent property interest.

Example 4: A creates an irrevocable trust, granting A's wife, B, a life estate in the beneficial use of the property with a remainder to C and D who are unrelated to A and B. The creation of a life estate in B is a transfer subject to the interspousal exclusion from change in ownership. Upon B's death, however, a change in ownership occurs because on that date C and D have an immediate right to the present possession and enjoyment of the remainder.

NOTE: Refer to Rule 462.160 for trust transfer exceptions.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended November 13, 1979, effective December 6, 1979.
Amended May 5, 1981, effective August 12, 1981.
Amended March 31, 1982, effective June 10, 1982.
Amended May 11, 1994, effective June 10, 1994. Renumbered, formerly 462(n).
Amended March 19, 1997, effective June 11, 1997.

Rule 462.500. CHANGE IN OWNERSHIP OF REAL PROPERTY ACQUIRED TO REPLACE PROPERTY TAKEN BY GOVERNMENTAL ACTION OR EMINENT DOMAIN PROCEEDINGS.

References: Section 68, Revenue and Taxation Code.
Article XIIIA, Section 2(d), California Constitution.

(a) GENERAL. The term ''change in ownership'' shall not include the acquisition of comparable real property as replacement for property taken if the person acquiring the replacement real property has been displaced from property in this state by:

(1) Eminent domain proceedings instituted by any entity authorized by statute to exercise the power of eminent domain, or

(2) Acquisition by a public entity, or

(3) Governmental action which has resulted in a judgment of inverse condemnation.

(b) DEFINITIONS. The following definitions govern the construction of the words or phrases used in this section.

(1) ''Property taken'' means both property taken and property acquired as provided in (a).

Rule 462.500. (Contd.)

(2) ''Replaced property'' means real property taken.

(3) ''Replacement property'' means real property acquired to replace property taken.

(4) ''Award or purchase price'' means the amount paid for ''replaced property'' but shall not include amounts paid for relocation assistance or any thing other than the replaced real property.

(c) COMPARABILITY. Replacement property, acquired by a person displaced under circumstances enumerated in (a), shall be deemed comparable to the replaced property if it is similar in size, utility, and function.

(1) Property is similar in function if the replacement property is subject to similar governmental restrictions, such as zoning.

(2) Both the size and utility of property are interrelated and associated with value. Property is similar in size and utility only to the extent that the replacement property is, or is intended to be, used in the same manner as the property taken (i.e., single-family residential and duplex, multi-family residential other than duplexes, commercial, industrial, agricultural, vacant, etc.) and its full cash value does not exceed 120 percent of the award or purchase price paid for the replaced property.

(A) A replacement property or any portion thereof used or intended to be used for a purpose substantially different than the use made of the replaced property, shall to the extent of the dissimilar use be considered not similar in utility.

(B) A replacement property or portion thereof which satisfies the use requirement but has a full cash value which exceeds 120 percent of the award or purchase price shall be considered, to the extent of the excess, not similar in utility and size.

(3) To the extent that replacement property, or any portion thereof, is not similar in function, size and utility, the property, or portion thereof, shall be considered to have undergone a change in ownership.

EXAMPLE: A home is replaced by a combination dwelling and commercial property. Relief is applicable to only the dwelling portion of the replacement property; the commercial portion shall be considered as having changed ownership.

EXAMPLE: A combination dwelling and commercial property is replaced with a home. Only the dwelling portion of the property taken shall be considered in determining the comparability and the amount of relief. The right to relief on the commercial portion of the property taken is waived unless comparable replacement commercial property is acquired after the date of displacement and a timely request is made for assessment relief.

EXAMPLE: A combination dwelling and commercial property is replaced with a home, and later the displaced person also acquires a separate comparable replacement commercial property. Pro-rata relief shall be granted on both the replacement home and commercial property to the extent provided in subdivision (b)(1).

Rule 462.500. (Contd.)

(d) BASE YEAR VALUE OF REPLACEMENT PROPERTY. The following procedure shall be used by the assessor in determining the appropriate adjusted base year value of comparable replacement property:

(1) Compare the award or purchase price paid by the acquiring entity for the property taken or acquired with the full cash value of the comparable replacement property.

(2) If the full cash value of the comparable replacement property does not exceed 120 percent of the award or purchase price of the property taken, then the adjusted base year value of the property taken shall become the replacement property's base year value.

(3) If the full cash value of the replacement property exceeds 120 percent of the award or purchase price of the property taken, then the amount of the full cash value over 120 percent of the award or purchase price paid shall be added to the adjusted base year value of the property taken. The sum of these amounts shall become the replacement property's base year value.

(4) If the full cash value of the comparable replacement property is less than the adjusted base year value of the property taken, then that lower value shall become the replacement property's base year value.

(5) If there is no award or purchase price paid by the acquiring entity (i.e., an exchange) for the property taken, then the full cash value of the acquired property and the full cash value of the replacement property shall be determined by the assessor of the county in which each property is located for the purpose of applying the other provisions of this subdivision. The procedure set forth in subdivision (d) (1) through (d) (4) shall then be applied to determine the replacement property's base year value.

(e) OWNERSHIP REQUIREMENTS. Only the owner or owners of the property taken, whether one or more individuals, partnerships, corporations, other legal entities, or a combination thereof, shall receive property tax relief under this section. Relief under this section shall be granted to an owner(s) of replaced property obtaining title to replacement property: The acquisition of an ownership interest in a legal entity which, directly or indirectly, owns real property is not an acquisition of comparable property.

EXAMPLE: A & B each own an undivided 50 percent interest as joint tenants in a home which is taken through eminent domain proceedings by the state. A purchases a replacement home which is comparable to the replaced property. B contributes his share of the award or purchase price to a limited partnership which owns a home which is comparable replacement property. A's relief under this section is limited to 120 percent of one-half of the award or purchase price of the property taken. B is entitled to no relief.

EXAMPLE: A partnership composed of two corporations owns commercial property which is taken through eminent domain proceedings. The partnership uses the award or purchase price to acquire comparable commercial property. The partnership is entitled to relief under this section.

Rule 462.500. (Contd.)

EXAMPLE: A partnership composed of two corporations owns commercial property which is taken through eminent domain proceedings. The partnership distributes the award or purchase price to the partner corporations in the same percentage as their ownership interests and the corporations separately or jointly acquire comparable replacement property retaining the same percentage of ownership interest in the partnership. No tax relief may be granted under this section.

For purposes of this section, owner means the fee owner or life estate owner of the real property taken and excludes the lessee thereof unless the lessee owns improvements located on land owned by another, in which case, the lessee shall be entitled to property tax relief for comparable replacement improvements.

(f) NEW CONSTRUCTION. Any new construction required to make replacement property comparable to the property taken shall, to that extent, be eligible for property tax relief, if such new construction is completed after March 1, 1975, and if it is completed on or after the earliest of the dates listed in subdivision (g)(3), and if a timely request is made for assessment relief.

(g) TIME LIMITS FOR QUALIFICATION.

(1) The provisions of this section shall apply to property acquired after March 1, 1975, as replacement property for property taken after March 1, 1975, by eminent domain proceedings, public acquisitions, or judgments of inverse condemnation, and shall affect only those assessments of the replacement property on the 1983–84 assessment roll and thereafter, provided the person acquiring replacement property makes a timely request for such assessment with the assessor. No reassessments and no refunds shall be made for any years prior to the 1983–84 fiscal year because of decreases made to assessments for the 1983–84 fiscal year or fiscal years thereafter as a result of the provisions of this section. Reassessments and refunds shall be made retroactively to the date of acquisition of replacement property for property taken in fiscal years commencing with 1983–84, provided a timely request is made therefor.

(2) For purposes of this section, a request made by January 1, 1987, shall be deemed timely for replacement property acquired after March 1, 1975, and before January 1, 1983. For replacement property acquired on or after January 1, 1983, a request shall be deemed timely if made within four years after one of the following dates, whichever is applicable:

(A) The date final order of condemnation is recorded or the date the taxpayer vacates the replaced property, whichever is later, for property acquired by eminent domain; or

(B) The date of conveyance or the date the taxpayer vacates the replaced property, whichever is later, for property acquired by a public entity by purchase or exchange; or

(C) The date the judgment of inverse condemnation becomes final or the date the taxpayer vacates the replaced property, whichever is later, for property taken by inverse condemnation.

(3) Replacement property shall be eligible for property tax relief under this section if it is acquired after March 1, 1975, and if it is acquired on or after the earliest of the following dates:

Rule 462.500. (Contd.)

(A) The date the initial written offer is made for the replaced property by the acquiring entity;

(B) The date the acquiring entity takes final action to approve a project which results in an offer for or the acquisition of the replaced property; or

(C) The date, as declared by the court, that the replaced property was taken.

(4) No property tax relief shall be granted to replacement property, however, prior to the date of displacement. The date of displacement shall be the earliest of the following dates:

(A) The date the conveyance of the replaced property to the acquiring entity or the final order of condemnation is recorded.

(B) The date of actual possession by the acquiring entity of the replaced property.

(C) The date upon or after which the acquiring entity may take possession of the replaced property as authorized by an order for possession.

(h) ADMINISTRATION.

(1) The assessor shall only consider the following documents as proof of actual displacement of a taxpayer when a request has been made for the assessment relief provisions under this section:

(A) A certified recorded copy of the final order of condemnation, or, if the final order has not been issued, a certified recorded copy of the order for possession showing the effective date upon or after which the acquiring entity is authorized to take possession of the replaced property;

(B) A copy of a recorded deed showing acquisition by a public entity; or

(C) A certified copy of a final judgment of inverse condemnation.

(2) Upon receipt of a taxpayer request and proof of actual displacement, the assessor shall forward to the Board such information regarding the identification of a displaced property as the Board may require. The Board shall review such information to determine whether more than one request for assessment relief has been made as a result of a single taking or governmental acquisition and if so shall advise the appropriate assessor(s).

History: Adopted September 13, 1984, effective February 16, 1985.
Amended November 18, 1987, effective February 14, 1988.

Rule 463. NEWLY CONSTRUCTED PROPERTY.

Reference: Article XIII A, Sections 1, 2, California Constitution.
Section 15606, Government Code.

(a) When real property, or a portion thereof, is newly constructed after the 1975 lien date, the assessor shall ascertain the full value of such ‘‘newly constructed

Rule 463. (Contd.)

property'' as of the date of completion. This will establish a new base year full value for *only* that portion of the property which is newly constructed, whether it is an addition or alteration. The taxable value on the total property shall be determined by adding the full value of new construction to the taxable value of preexisting property reduced to account for the taxable value of property removed during construction. The full value of new construction is only that value resulting from the new construction and does not include value increases not associated with the new construction.

(b) ''Newly constructed'' or ''new construction'' means and includes:

(1) Any substantial addition to land or improvements, including fixtures, such as adding land fill, retaining walls, curbs, gutters or sewers to land or constructing a new building or swimming pool or changing an existing improvement so as to add horizontally or vertically to its square footage or to incorporate an additional fixture, as that term is defined in this section.

(2) Any substantial physical alteration of land which constitutes a major rehabilitation of the land or results in a change in the way the property is used.

Examples of alterations to land to be considered new construction are: site development of rural land for the purpose of establishing a residential subdivision; altering rolling, dry grazing land to level irrigated crop land; or preparing a vacant lot for use as a parking facility.

(A) In any instance in which an alteration is substantial enough to require reappraisal, only the value of the alteration shall be added to the base year value of the pre-existing land or improvements. Increases in land value caused by appreciation or a zoning change rather than new construction shall not be enrolled, for example:

1.	Land value 1975	= $10,000	
2.	Land value 1978	= $20,000	
3.	Value of alteration 1978	= $5,000	
4.	Value of structure added 1978	= $75,000	
1979 roll value (1+3+4)		= $90,000	(must be adjusted to reflect appropriate indexing)

(B) Alterations to land which do not constitute a major rehabilitation or which do not result in a change in the way the property is used shall not result in reappraisal.

(3) Any physical alteration of any improvement which converts the improvement or any portion thereof to the substantial equivalent of a new structure or portion thereof or changes the way in which the portion of the structure that had been altered is used, e.g., physical alterations to an old structure to make it the substantial equivalent of a new building without any change in the way it is used or alterations to a warehouse that makes it usable as a retail store or a restaurant. Only, the value, not necessarily the cost, of the alteration shall be added to the appropriately indexed base year value of the pre-existing structure.

Rule 463. (Contd.)

(4) Excluded from alterations that qualify as ''newly constructed'' is construction or reconstruction performed for the purpose of normal maintenance and repair, e.g., routine annual preparation of agricultural land or interior or exterior painting, replacement of roof coverings or the addition of aluminum siding to improvements or the replacement of worn machine parts.

(5) Any substantial physical rehabilitation, renovation or modernization of any fixture which converts it to the substantial equivalent of a new fixture or any substitution of a new fixture. Substantial equivalency shall be ascertained by comparing the productive capacity, normally expressed in units per hour, of the rehabilitated fixture to its original productive capacity.

(c) For purposes of this regulation, ''fixture'' is defined as an improvement whose use or purpose directly applies to or augments the process or function of a trade, industry, or profession.

(d) New construction in progress on the lien date shall be appraised at its full value on such date and each lien date thereafter until the date of completion, at which time the entire portion of property which is newly constructed shall be reappraised at its full value.

(e) For purposes of this regulation, the date of completion is the date the property or portion thereof is available for use. In determining whether the real property or a portion thereof is available for use, consideration shall be given to the date of the final inspection by the appropriate governmental official, or, in the absence of such inspection, the date the prime contractor fulfilled all of his contract obligations, or in the case of fixtures, the date of the completion of testing of machinery and equipment.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Amended January 25, 1979, effective March 1, 1979. Applicable to assessments for 1979 and years thereafter.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.
Amended February 25, 1998, effective June 12, 1998.

Rule 463.500. DATE OF COMPLETION OF NEW CONSTRUCTION—SUPPLEMENTAL ASSESSMENTS.

Reference: Sections 75.10, 75.11, 75.12, Revenue and Taxation Code.

(a) APPLICATION. The provisions of this section are applicable only to supplemental assessments levied pursuant to Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(b) DATE OF COMPLETION OF NEW CONSTRUCTION. The date of completion of new construction resulting from actual physical new construction on

Rule 463.500. (Contd.)

the site shall be the earliest of either the date upon which the new construction is available for use by the owner or, if all of the conditions of paragraph (b) (1) are satisfied, the date the property is occupied or used by the owner, or with the owner's consent, after the owner has provided a notice in accordance with paragraph (b) (1).

(1) The date of completion of new construction resulting from actual physical new construction shall not be the date upon which it is available for use if the owner does not intend to occupy or use the property and the owner notifies the assessor in writing prior to, or within 30 days after, the date of commencement of construction that he/she/it does not intend to occupy or use the identified property or a specified portion thereof.

(2) The date of completion of new construction resulting from actual physical new construction shall be conclusively presumed to be the date upon which the new construction is available for use by the owner if the assessor fails to receive notice as provided in paragraph (b) (1).

(c) DEFINITIONS.

(1) ''Property'' means land, improvement(s) including fixtures, and mobilehome(s) subject to taxation under Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code.

(2) ''New Construction resulting from actual physical new construction'' means ''new construction'' as defined in Section 463, subsections (b) and (f).

''New construction resulting from actual physical new construction'' also includes: (A) the installation of a new fixture which is an addition or is a replacement of an existing fixture; (B) the rehabilitation, renovation or modernization of any fixture which converts it to the substantial equivalent of a new fixture; (C) the severance of improvements, including structures and fixtures, which is associated with new construction; (D) the severance on, or after, March 1, 1985, of fixtures which qualify for assessment pursuant to Sections 75.15 and 75.16 of the Revenue and Taxation Code, whether or not the severance is associated with other new construction; or (E) the severance on, or after, July 31, 1985, of structures, whether or not the severance is associated with other new construction.

''New construction resulting from actual physical new construction'' does not include: (A) the severance prior to March 1, 1985, of improvements, including structures and fixtures, which is not associated with other new construction; (B) the severance on, or after, March 1, 1985 of any improvements, other than structures or fixtures, which is not associated with other new construction; (C) the severance prior to July 31, 1985, of structures which is not associated with other new construction; or (D) the discontinued use of improvements, including structures and fixtures, which are not physically severed from the property but which are made redundant by newly installed or erected structures, fixtures, or other improvements.

Examples: (A) The installation of a multi-level printing press (a fixture) as an addition to existing facilities constitutes actual physical new construction.

Rule 463.500. (Contd.)

(B) The installation of a printing press as the replacement of an existing press is also actual physical new construction.

(C) The complete renovation of an existing press to the substantial equivalent of a new press constitutes actual physical new construction.

(D) The severance of the old press (also a fixture) is actual physical new construction if it is associated with the installation of the new press or other new construction, or if it occurred on or after March 1, 1985.

(3) ''Commencement of construction'' means the performance of physical activities on the property which results in changes which are visible to any person inspecting the site and are recognizable as the initial steps for the preparation of land or the installation of improvements or fixtures. Such activities include clearing and grading land, layout of foundations, excavation of foundation footing, fencing the site, or installation of temporary structures. Such activities also include the severance of existing improvements or fixtures.

''Commencement of construction'' does not include activities preparatory to actual construction such as obtaining architect services, preparing plans and specifications, obtaining building permits or zoning variances or filing subdivision maps or environmental impact reports.

''Commencement of construction'' shall be determined solely on the basis of activities which occur and are apparent on the property undergoing new construction. Where several parcels are adjacent and will be used as a single unit by the builder for the construction project, the commencement of construction shall be determined on the basis of the activities which occur on any part of the several parcels comprising the unit. Where a property has been subdivided into separate lots, the commencement of construction shall be determined on the basis of the activities occurring on each separate lot. Where the property has been subdivided into separate lots and several or all of those lots will be used as a single unit by the builder for the construction project, the commencement of construction shall be determined on the basis of the activities which occur on any part of the several parcels comprising the unit.

(4) ''Available for use'' means that the property, or a portion thereof, has been inspected and approved for occupancy by the appropriate governmental official or, in the absence of such inspection and approval procedures, when the prime contractor has fulfilled all of the contractual obligations. When inspection and approval procedures are non-existent or exist but are not utilized and a prime contractor is not involved, the newly constructed property is available for use when outward appearances clearly indicate it is immediately usable for the purpose intended. Fixtures are available for use when all testing necessary for proper operation or safety is completed.

New construction is not available for use if, on the date it is otherwise available for use, it cannot be functionally used or occupied. In that case, the property is not available for use until the date that any legal or physical impediment to functional use or occupancy is removed.

Rule 463.500. (Contd.)

If a structure is constructed with the expectation that the tenant(s) will have improvements added after a lease(s) is executed, ''available for use'' means that point in time when the structure is ready to receive tenant improvements, whether or not there are any tenants at that time and regardless of who is to construct the improvements. If a construction project is completed in stages with some portions available for occupancy prior to completion of the total project, any portion of the project ready to receive tenant improvements is available for use even though other portions of the project are not ready for such improvements. In the case of physical alterations to land, such as leveling, ''available for use'' means that point in time when the land is ready for use by the owner and no further new construction is required for the new use. In the case of fixtures added as part of a larger new construction project, ''available for use'' means that point in time when the project, including the fixture, is ready for use.

(5) ''Occupied or used'' means the physical occupancy of the property by the owner or any physical use of the property by the owner, except where such occupancy or use is incidental to an offer for a change of ownership. ''Occupied or used'' also includes the rental or lease of the property or any occupancy or use of the property by third persons with the owner's consent. The occupancy or use of the property occurs on the earliest date when the property is physically occupied or used, or when the agreed upon term of occupancy commences. ''Used'' does not include the transfer of legal title to the property as security.

(6) ''Functionally used or occupied'' means that the property is or can be used or occupied for the purpose for which it was constructed. The purpose for which the property was constructed or improved shall be determined on the basis of the type of property and any special facts or circumstances which affect its use or occupancy. Property shall not be considered ''functionally used or occupied'' if any legal restriction or physical impediment beyond the owners' control prevents the use of the property for the purpose intended.

Examples: (A) A building intended for use as a warehouse can be functionally used when physical construction is completed even though the property to be stored has not arrived at the site.

(B) Land improved by leveling and the installation of an irrigation system which converts it from grazing land to farm land can be functionally used when the improvement activity is completed even though the planting season will not commence for several months.

(C) An office or hotel building on which construction is completed cannot be functionally used if it is uninhabitable because of the lack of power, water or sewer service, or if a natural disaster, such as a flood or earth slide, prevents reasonable public access to the facility.

(7) ''Owner's consent'' means the express or implied agreement of an owner to allow the property, or a portion thereof, to be physically occupied or used by a third person. Where the use or occupancy is visible to, or ascertainable by, the assessor, it shall be rebuttably presumed that the property is occupied or used with the owner's consent. If the owner has received actual or constructive notice of the occupancy or use, failure of the owner to communicate an objection to the user or enforce his rights to remove the occupant within a reasonable time shall be evidence of consent.

Rule 463.500. (Contd.)

(8) ''Incidental to an offer for a change of ownership'' means that an activity is usual or necessary to the holding of property for sale in the regular course of business. It includes any use or occupancy arising from the demonstration or display of the property for the purpose of selling that property or other property in the vicinity under the same ownership. It includes use of the property by the owner or by any person using the property with the owner's consent. Use of property as a model home, a sales office, or as a temporary storage facility for building materials or furnishings intended to be installed in other property to be held for sale, shall be considered to be incidental to an offer for a change in ownership. Temporary use of the property as lodging by a potential buyer for the purpose of sales promotion shall be considered incidental to an offer for a change of ownership. The use of this property, however, by a potential buyer as a principal residence pending the arrangement or approval of the financing necessary to complete the purchase is not incidental to an offer for a change in ownership.

(9) ''Structures'' means all improvements subject to supplemental assessment other than living improvements (trees and vines) and fixtures which qualify for assessment pursuant to Sections 75.15 and 75.16 of the Revenue and Taxation Code.

History: Adopted May 28, 1987, effective August 20, 1987.

Rule 464. VETERANS' EXEMPTIONS.

Reference: Sections 110, 110.1, 110.5, Revenue and Taxation Code.
Section 15606(c), Government Code.

The sum of 25 percent of the taxable value of taxable assets and 100 percent of the current full cash value as defined in Revenue and Taxation Code Section 110 for non-taxable assets will determine the limitation for the veterans' property tax exemption.

History: Adopted June 29, 1978, effective July 3, 1978
Amended February 25, 1998, effective June 12, 1998.

Rule 468. OIL AND GAS PRODUCING PROPERTIES.

Authority: Section 15606(c), Government Code.

Reference: Article XIII A, Sections 1 and 2, California Constitution.

(a) The right to remove petroleum and natural gas from the earth is a taxable real property interest. Increases in recoverable amounts of such minerals caused by changed physical or economic conditions constitute additions to such a property interest. Reduction in recoverable amounts of minerals caused by production or changes in the expectation of future production capabilities constitute a reduction in

Rule 468. (Contd.)

the interest. Whether or not physical changes to the system employed in recovering such minerals qualify as new construction shall be determined by reference to Section 463(a).

(b) The market value of an oil and gas mineral property interest is determined by estimating the value of the volumes of proved reserves. Proved reserves are those reserves which geological and engineering information indicate with reasonable certainty to be recoverable in the future, taking into account reasonably projected physical and economic operating conditions. Present and projected economic conditions shall be determined by reference to all economic factors considered by knowledgeable and informed persons engaged in the operation and buying or selling of such properties, e.g., capitalization rates, product prices and operation expenses.

(c) The unique nature of oil and gas property interests requires the application of specialized appraisal techniques designed to satisfy the requirements of Article XIII, Section 1, and Article XIII A, Section 2, of the California Constitution. To this end, the valuation of such properties and other real property associated therewith shall be pursuant to the following principles and procedures:

(1) A base year value (market value) of the property shall be estimated as of lien date 1975 or as of the date a change in ownership occurs subsequent to lien date 1975. Newly constructed improvements and additions in reserves shall be valued as of the lien date of the year for which the roll is being prepared. Improvements removed from the site shall be deducted from taxable value. Base year values shall be determined using factual market data such as prices and expenses ordinarily considered by knowledgeable and informed persons engaged in the operation, buying and selling of oil, gas and other mineral-producing properties and the production therefrom. Once determined, a base year value may be increased no more than two percent per year.

(2) Base year reserve values must be adjusted annually for the value of depleted reserves caused by production or changes in the expectation of future production.

(3) Additions to reserves established in a given year by discovery, construction of improvements, or changes in economic conditions shall be quantified and appraised at market value.

(4) The current year's lien date taxable value of mineral reserves shall be calculated as follows:

(A) The total unit market value and the volume of reserves using current market data shall be estimated.

(B) The current value of taxable reserves is determined by segregating the value of wells, casings, and parts thereof, land (other than mineral rights) and improvements from the property unit value by an allocation based on the value of such properties.

(C) The volume of new reserves shall be determined by subtracting the prior year's reserves, less depletions, from the estimated current total reserves.

Rule 468. (Contd.)

(D) The value of removed reserves shall be calculated by multiplying the volume of the reserves removed in the prior year by the weighted average value, for reserves only, per unit of minerals for all prior base years. The prior year's taxable value of the reserves remaining from prior years shall be found by subtracting the value of removed reserves from the prior year's taxable value.

(E) The new reserves are valued by multiplying the new volume by the current market value per unit of the total reserves.

(F) The current taxable value for reserves only is the sum of the value of the prior year's reserves, net of depletions as calculated in (D) above, factored by the appropriate percentage change in the Consumer Price Index (CPI) added to the value of the new reserves, as calculated in (E) above.

(5) Valuation of land (other than mineral reserves) and improvements.

(A) A base year value (market value) of land (including wells, casings and parts thereof) and improvements shall be estimated as of lien date 1975 the date of new construction after 1975, or the date a change of ownership occurs subsequent to lien date 1975.

(B) The value of land (wells, casings and parts thereof) and improvements shall remain at their factored base year value except as provided in (6) below.

(6) Value declines shall be recognized when the market value of the appraisal unit, i.e., land, improvements and reserves, is less than the current taxable value of the same unit.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended effective April 2, 1979.
Amended June 28, 1979, effective July 2, 1979.
Amended and effective June 6, 2001. Deleted reference to repealed rule in subsections (c)(1) and (c)(5).

Rule 469. MINING PROPERTIES.

Authority: Section 15606(c), Government Code.

Reference: Article XIII, Section 1, California Constitution; Article XIII A, Section 2, California Constitution; Sections 51, 53.5, 110.1, Revenue and Taxation Code.

(a) The provisions of this rule apply to the valuation of the rights to explore, develop and produce minerals, other than oil, gas and geothermal resources, and the real property associated with these rights.

(b) GENERAL.

(1) Rights to enter in or upon land for the purpose of exploration, development or production of minerals are taxable real property interests to the extent they individually or collectively have ascertainable value.

Rule 469. (Contd.)

(2) It is the right to explore, develop and produce that is being valued and not the physical quantity of resources present on the valuation date.

(3) The unique nature of mineral property interests requires the application of specialized appraisal techniques designed to satisfy the requirements of article XIII, section 1, and article XIII A, section 2, of the California Constitution. To this end, mineral property interests and other real property associated therewith shall be valued pursuant to the principles and procedures set forth in this section.

(4) Notwithstanding any other provision in this section, any appropriate valuation method described in section 3 of title 18 of this code may be applied in the event of a transfer of an ownership interest in the right to explore, develop or produce a mineral property.

(c) DEFINITIONS. For the purposes of this section:

(1) ''Minerals'' means organic and inorganic earth material including rock but excluding oil, gas, and geothermal resources.

(2) ''Proved reserves'' means those minerals measured by volume or weight which geological and engineering information indicate with reasonable certainty to be recoverable in the future, taking into account reasonably projected physical and economic operating conditions. ''Proved reserves'' includes all minerals that satisfy the conditions of the preceding sentence without regard to how the term is used in industry.

(3) ''Exploration'' means the searching for and determining the location, quantity, nature, shape, and quality of mineral deposits.

(4) ''Development'' means the preparation of minerals for production including the removal of waste rock or overburden, and the construction of improvements or improvements to land related to the production of minerals.

(5) ''Production'' means the removal or processing of minerals.

(6) ''Appraisal unit'' consists of a mineral property that persons in the marketplace commonly buy and sell as a unit or that is normally valued separately. However, for assessments made on or after January 1, 1999, each leach pad, tailings facility, and settling pond shall be a separate appraisal unit.

(d) VALUATION OF MINERAL PROPERTIES PRIOR TO PRODUCTION.

(1) Exploration. The right to explore for minerals is taxable to the extent it has value separate from the rights to develop and produce any discovered minerals. The right to explore shall be valued by any appropriate method or methods as prescribed in section 3 of title 18 of this code taking into consideration appropriate risks; however, in no event shall the right be considered to be under construction. While the construction of structures or the physical alterations to land, e.g., access roads, fencing, drainage or water systems, land clearing, etc., during exploration constitutes assessable new construction (subject to the provisions of section 463 of title 18 of this code), it does not add to or diminish the value of the right to explore. Costs

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associated with obtaining government approval related to new construction should be considered when valuing new construction. Costs of obtaining governmental approval to operate, taking ore samples, assaying for mineral content or testing processing methods, shall not be considered for purposes of valuing the right to explore. These latter elements of costs may appear in the value of the mineral rights when production starts. Once the base-year value of the right to explore is determined and enrolled, it shall not be changed except to reflect diminution in value from all causes as well as any increase in value resulting from the annual rate of inflation as prescribed by section 460 of title 18 of this code or to reflect a change in ownership, or as provided in subdivision (g) of this rule.

(2) Development.

(A) Although the right to develop and the right to produce minerals are separate rights, the value of the right to develop is virtually unascertainable separate from the right to produce. Therefore no separate value shall be established for the right to develop unless there is an intervening change in ownership at which time the right to develop may have an assessable value as reflected in the purchase price. Any value attributable thereto shall be deemed to be included in the base-year value of the mineral rights established in accordance with subdivisions (e) and (f) of this rule. In no event shall the right to develop or produce minerals be treated as being under construction.

(B) Whether the construction of improvements or alteration to land during development qualify as new construction shall be determined by reference to sections 463 and 463.5 of title 18 of this code and sections 70, 71, and 73 of the Revenue and Taxation Code.

(e) VALUATION OF MINERAL PROPERTIES DURING PRODUCTION.

(1) General.

(A) The base-year value of mineral rights associated with producing mineral properties shall be established as of March 1, 1975 or thereafter when such rights undergo a change in ownership or as of the date production commences. The market value of such mineral rights is determined by valuing the estimated quantity of proved reserves that can reasonably be expected to be produced during the time period these rights are exercisable. The valuation of the proved reserves shall be based on present and reasonably projected economic conditions (e.g., capitalization rates, product prices and operating expenses, etc.) normally considered by knowledgeable and informed people engaged in operating, buying, or selling of such properties or the marketing of the production therefrom. While the assessor has full discretion to select the appropriate appraisal method, the income approach will generally be the most relevant appraisal method employed in establishing a value for the total property.

(B) Increases in proved reserves that occur following commencement of production and that are caused by changed physical, technological or economic conditions constitute additions to the mineral rights which have not been assessed and which shall be assessed on the regular roll as of the lien date following the date

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they become proved reserves. The increased quantity of proved reserves shall be used to establish the value of the addition to the property interest which value shall be added to the adjusted base-year value of the reserves remaining from prior years as the separate base-year value of the addition. Reductions in recoverable amounts of minerals caused by production or by changed physical, technological or economic conditions or a change in the expectation of future production capabilities constitute reductions in the measure of the mineral rights and shall correspondingly reduce value on the subsequent lien date.

(2) Value Calculation.

(A) The base-year value or the adjusted base-year value of mineral rights as quantified by proved reserves for the current year's lien date shall be calculated as follows:

(1) Estimate the market value of the total property and estimate the physical quantity of proved reserves that may be reasonably expected to be produced during the time the right to produce is exercisable using current market data.

(2) Estimate the current value of proved reserves by segregating the value of land (other than proved reserves), improvements to land constructed during the exploration, development, and production stages (e.g., roads, ditches, trenches, excavations, pits, drifts, stopes, etc.), other improvements and personal property (including any resources severed from the land except for inventory already excluded from the market value of the unit) from the unit value by an allocation based on the current market value of the component parts.

(3) Estimate the quantity of additions to proved reserves by subtracting the prior year's proved reserves, less depletion, from the estimated current proved reserves.

(4) Estimate the value of reserves removed (depletion) by multiplying the quantity of the reserves removed in the prior year by the weighted average value, for reserves only, per unit of minerals for all prior base years. The adjusted base-year value of the reserves remaining from prior years shall be found by subtracting the value of removed reserves from the prior year's adjusted base-year value.

(5) Value the added proved reserves by determining the current market value of all of the proved reserves less the current market value of proved reserves existing prior to adding new proved reserves.

(6) The current adjusted base-year value for proved reserves only is the sum of the value of the prior year's proved reserves, less the depletion calculated in (iv) above, factored for inflation as prescribed by section 460 of title 18 of this code added to the value of the new reserves, as calculated in (v) above.

(B) The base-year value or adjusted base-year value of land (other than mineral rights, leach pads, tailings facilities, and settling ponds) and improvements for the current year's lien date shall be calculated as follows:

(1) Determine the adjusted base-year value of land, improvements to land constructed during the exploration, development and production stages (including

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roads, ditches, trenches, excavations, pits, drifts, stopes, etc.), and other improvements in accordance with Sections 51 and 110.1 of the Revenue and Taxation Code.

(2) Add the current market value of any construction in progress, excluding leach pads, tailings facilities, and settling ponds, on the lien date.

(C) Declines in the value of the mineral property shall be recognized when the market value of the appraisal unit, (i.e., land, improvements including fixtures, and reserves), is less than the current adjusted base-year value of the same unit, except for a leach pad, tailings facility, or settling pond. Each leach pad, tailings facility, or settling pond shall be considered a separate appraisal unit for purposes of determining its taxable value on each lien date subsequent to the lien date upon which its initial base year value was determined.

(f) VALUATION OF MINERAL PRODUCING PROPERTIES WITHOUT PROVED RESERVES. Where proved reserves cannot be estimated or are not usually estimated, the value of the mineral property shall be estimated in accordance with the provisions of section 3 of title 18 of this code.

(g) TAXABLE VALUE OF THE RIGHT TO PRODUCE MINERALS. The value of the right to produce minerals shall be established as of the date that the production of minerals commences and the value shall be placed on the roll as provided by law. When the value of the right to produce minerals is enrolled, the roll value of the exploration or development rights for the same reserves shall be reduced to zero.

History: Adopted June 29, 1978, effective July 3, 1978.
Amended September 26, 1978, effective October 2, 1978.
Amended June 1, 1990, effective August 25, 1990.
Amended February 24, 1999, effective August 13, 1999.
Amended and effective June 7, 2001. Deleted reference to former rule in subsection (e)(6)(B)(1).

Rule 471. TIMBERLAND.

Reference: Article XIII A, Sections 1, 2, California Constitution.

Consistent with the intent of the provisions of Section 3(j) of Article XIII of the California Constitution and the legislative interpretation thereof, the value for land which has been zoned as timberland pursuant to Section 51110 or 51113 of the Government Code shall be ascertained for the 1979 lien date from the schedule contained in Section 434.5 of the Revenue and Taxation Code and thereafter from the most recent board-adopted timberland site class value schedule.

History: Adopted June 29, 1978, effective July 3, 1978
Amended September 26, 1978, effective October 2, 1978.
Repealed Old Rule and Adopted New Rule August 16, 1979, effective August 22, 1979.

Rule 472. VALUATION OF REAL PROPERTY INTERESTS IN TIMESHARE ESTATES AND TIMESHARE USES.

Reference: Section 998, Revenue and Taxation Code.

(a) The full value of the real property interest of a timeshare estate or a timeshare use, as defined in Section 11003.5 of the Business and Professions Code shall be determined in accordance with the provisions of this section.

(b) In determining the value of the real property interest of a timeshare estate or use, consideration shall be given to the following factors which are unique to such interests:

(1) The fact that the timeshare estate or use is marketed in increments of time.

(2) The season of the year during which the owner is entitled to the right to use or possession of the property.

(c) The full value of the real property interest of a timeshare estate or use shall not include the value of any personal property or other nonreal property items. Such items include, but are not limited to, vacation exchange rights, vacation conveniences and services, and club memberships, as defined in subdivisions (d), (e), and (f).

The value of any nonreal property items included in the purchase price of a timeshare estate or use which are provided to the timeshare interest owner in exchange for a periodic fee or charge which is separate from the purchase price of the timeshare estate or use shall not be considered in the determination of the full value of the real property of the timeshare estate or use.

(d) ''Nonreal property vacation exchange rights'' shall include, but not be limited to, internal and external exchanges. An internal exchange means an exchange arranged by the timeshare project developer or operator for a timeshare estate or use owner between two or more resorts owned by the same developer or operator. An external exchange means an exchange arranged by an independent exchange network, which has a contractual relationship with either the timeshare project development or the individual timeshare owner.

(e) ''Nonreal property vacation conveniences and services'' shall include, but not be limited to:

(1) The owner's right to participate in exchange network.

(2) Maintenance and repair of buildings (interior and exterior) and grounds.

(3) Maid, meal, linen, and security guard services.

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(4) Transportation, scheduling, and reservation services.

(5) Management services necessary for the administration of the operation of the property.

(6) The services of personnel charged with providing social or recreational instruction and planned activities.

(f) ''Nonreal property club memberships'' shall include memberships in recreational enterprises that are in the nature of licenses or permits to use real property but do not grant ownership interests in that property. Evidence that a membership grants a license or permit rather than an ownership interest includes, but is not limited to, the fact that the membership is offered as an option to timeshare purchases and that such memberships are also offered to others who do not own timeshare estates or uses.

(g) In determining the full value of the real property interest of a timeshare estate or use, the assessor shall consider the value concepts and approaches set forth in Sections 2, 3, 4, 6, and 8 of this Chapter.

(h) The assessor may determine the value of the timeshare appraisal unit by the following method:

(1) Determine the full value of resort properties, condominiums, cooperatives, or other properties not marketed in increments of time but which are comparable to the subject property in terms of size, type, and location. Divide such full value by a unit of time equal to the timeshare interest being valued.

(2) Add to or subtract from the non-timeshare value quotient determined in (1), an amount necessary to reflect any increase or decrease in such value attributable to the fact that the subject property is marketed in increments of time and, if applicable, for a particular season.

(i) In addition to the method set forth in subdivision (h), the assessor may utilize any generally recognized alternative method of valuation to determine the full value of the real property of a timeshare estate or use.

(j) Nothing in this section shall be construed as requiring the assessment of a timeshare appraisal unit at less than full value as required by Section 401 of the Revenue and Taxation Code and as defined in Section 2 of this Chapter.

(k) The provisions of this section are declaratory of, and not a change in existing law and are therefore applicable to the determination of all base year values for the real property interest of timeshare estates and uses.

History: Adopted June 28, 1984, effective February 9, 1985.

Rule 473. GEOTHERMAL PROPERTIES.

Authority: Section 15606(c), Government Code.

Reference: California Constitution, Article XIII, Section 1; California Constitution, Article XIII A, Section 2; Revenue and Taxation Code, Sections 51 and 110.1. *Phillips Petroleum Co.* v. *County of Lake* (1993) 15 Cal.App.4th 180.

(a) The provisions of this rule apply to the valuation of the rights to explore for, develop, and produce useful geothermal energy (hereafter, ''proved reserves''), and the real property associated with these rights. The provisions of this rule apply only to the valuation of property for lien dates, including lien dates for both the regular and the supplemental assessment rolls, that occur on or after January 1, 1996.

(b) GENERAL.

(1) Rights to enter in or upon land for the purpose of exploration, development, or production of proved reserves are taxable real property interests to the extent they individually or collectively have ascertainable value.

(2) It is the right to explore, develop, and produce that is being valued and not the physical quantity of resources present on the valuation date.

(3) The unique nature of geothermal property interests requires the application of specialized appraisal techniques designed to satisfy the requirements of Article XIII, Section 1, and Article XIII A, Section 2, of the California Constitution. To this end, the valuation of such properties and other real property associated therewith shall be pursuant to the principles and procedures in this section.

(4) Notwithstanding any other provision in this section, any appropriate valuation method described in Section 3 of Title 18 of this code may be applied in the event of a transfer of an ownership interest in the right to explore, develop, or produce a geothermal property.

(c) DEFINITIONS.

For the purposes of this section:

(1) ''Geothermal energy'' means heat generated by natural processes beneath the earth's surface.

(2) ''Proved reserves'' means that quantity of geothermal energy capable of supporting the economic life of the geothermal project or geothermal projects to which it is assigned, reassigned, or which is otherwise marketable and which geological and engineering information indicate with reasonable certainty to be recoverable in the future, taking into account reasonably projected physical and economic operating conditions.

(3) ''Geothermal project'' means the integrated operation involving the right to develop and/or produce proved reserves, the delivery systems, the energy conversion plant(s), and all associated supporting assets or holdings.

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(4) ''Energy Conversion Plant'' means a facility designed to convert geothermal energy to a useful application or transportable energy form.

(5) ''Exploration'' means searching for and determining the location, quantity, nature, and quality of proved reserves.

(6) ''Development'' means preparing geothermal energy for production, including the process of securing the necessary approvals from government agencies and the construction of improvements and improvements to land necessary to begin the production of proved reserves.

(7) ''Production'' means the removal of proved reserves from the earth for economic purposes after completion of construction and initial testing.

(d) VALUATION OF GEOTHERMAL PROPERTIES PRIOR TO PRODUCTION.

(1) Exploration

The right to explore for geothermal energy is taxable to the extent it has value separate from the rights to develop and produce any discovered proved reserves. The right to explore shall be valued by any appropriate method or methods as prescribed in Section 3 of Title 18 of this code taking into consideration appropriate risks; however, in no event shall the right be considered to be under construction.

(A) While the construction of improvements or physical alterations to land, e.g., access roads, fencing, drill pad preparation, drainage or water systems, land clearing, etc., during exploration constitutes assessable new construction (subject to the provisions of Section 463 of Title 18 of this code), it does not add to or diminish the value of the right to explore.

(B) Costs associated with obtaining government approval related to new construction shall be considered when valuing new construction. Costs associated with obtaining government approval to operate (e.g., expenditures for zoning variances, environmental impact studies, and operating permits), and costs of drilling and testing exploratory wells, and performing seismic surveys, shall not be considered for purposes of valuing the right to explore. These latter elements of cost may appear in the value of the right to produce when production starts.

(C) Once the base year value of the right to explore is determined and enrolled, it shall not be changed except to reflect diminution in value from all causes as well as any increase in value resulting from the annual rate of inflation as prescribed by Section 460 of Title 18 of this code, or to reflect a change in ownership, or as provided in subdivision (f) of this rule.

(2) Development.

(A) Although the right to develop and the right to produce proved reserves are separate rights, the value of the right to develop is virtually unascertainable separate from the right to produce. Therefore, no separate value shall be established for the right to develop. Any value attributable thereto shall be deemed to be included in the

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base year value of the right to produce proved reserves established in accordance with subsection (e) of this rule. In no event shall the right to develop or produce proved reserves be treated as being under construction.

(B) Whether the construction of improvements or alteration to land during development qualifies as new construction shall be determined by reference to Sections 463 and 463.5 of Title 18 of this code and Sections 70 and following of the Revenue and Taxation Code.

(C) If there is a change in ownership during development, the base year value of the right to produce proved reserves shall be established as of the date of the change in ownership. Increases and decreases in the quantity of proved reserves following a change in ownership shall be assessed in accordance with subsection (e) of this rule.

(e) VALUATION OF GEOTHERMAL PROPERTIES DURING PRODUCTION.

(1) The base year value of the right to produce proved reserves shall be established as of March 1, 1975, or thereafter, when such right undergoes a change in ownership. If there is no change in ownership of the right to produce during development, then the base year value of the right to produce proved reserves shall be established as of the date production commences after completion of construction and initial testing. The market value of such rights is determined by valuing the estimated quantity of proved reserves that can reasonably be expected to be produced during the time period these rights are exercisable.

(A) The valuation of the proved reserves shall be based on present and reasonably projected economic conditions (e.g., capitalization rates, product prices, operating expenses, and future capital expenditures required to maintain the income stream, etc.) normally considered by knowledgeable and informed people engaged in operating, buying, or selling geothermal properties or marketing the production therefrom.

(B) While the assessor has full discretion to select the appropriate appraisal method, the income approach will generally be the most relevant appraisal method employed in establishing a value for the total property.

(2) **(A)** Increases in proved reserves that occur following establishment of the base year value of the right to produce proved reserves and that are caused by changed physical, technological, or economic conditions constitute additions to the right to produce which have not been assessed and which shall be assessed on the regular roll as of the lien date following the date they become proved reserves. The increased quantity of proved reserves shall be used to establish the value of the addition to the property interest, which value shall be added to the adjusted base year value of the proved reserves remaining from prior years as the separate base year value of the addition.

(B) Reductions in recoverable amounts of proved reserves caused by production or changed physical, technological, or economic conditions, or a change

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in the expectation of future production capabilities, constitute reductions in the value of the right to produce and shall correspondingly reduce the adjusted base year value on the subsequent lien date.

(3) The valuation of the new construction of wells (including, but not limited to, replacement wells) and improvements shall be in accordance with this Section and Sections 463 and 463.5 of Title 18 of this code.

(4) Value Calculation

(A) The base year value or the adjusted base year value of the right to produce as quantified by proved reserves for the current year's lien date shall be calculated as follow:

1. Estimate the market value of the total property and estimate the quantity of proved reserves that may reasonably be expected to be consumed, using current market data. (The quantity of proved reserves may be converted to units appropriate for the project being valued, such as megawatt hours of electrical energy, British Thermal Units, pounds of steam, etc.)

2. Estimate the current value of proved reserves by segregating the value of land (other than proved reserves), improvements to land constructed during the exploration, development and production stages (e.g., roads, drill pads, energy delivery systems, drainage channels, etc.), and other impovements and personal property from the unit value by an allocation based on the current market value of the component parts.

3. Estimate the quantity of additions to proved reserves by subtracting the prior year's proved reserves, less depletion, from the estimated current proved reserves.

4. Estimate the value of proved reserves removed (depletion) by multiplying the quantity of the proved reserves removed in the prior year by the weighted average value, for proved reserves only, per unit of proved reserves for all prior base years. The adjusted base year value of the proved reserves remaining from prior years shall be found by subtracting the value of removed proved reserves from the prior year's adjusted base year value.

5. Value the additions to proved reserves by multiplying the quantity of proved reserves found in 3. above by the current market value per unit of total proved reserves, calculated using the values found in 1. and 2., above.

6. The current adjusted base year value for proved reserves only is the value of the prior year's proved reserves, less the depletion calculated in 4. above, factored for inflation as prescribed by Section 460 of Title 18 of this code, and added to the value of the new proved reserves, as calculated in 5. above.

(B) The base year value or adjusted base year value of land (other than the mineral rights) and improvements for the current year's lien date shall be calculated as follows:

1. Determine adjusted base year value of land, improvements to land constructed during the exploration, development, and production stages (including

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roads, drill pads, energy delivery systems, drainage channels, etc.), and other improvements in accordance with Sections 51 and 110.1 of the Revenue and Taxation Code.

2. Add the current market value of any construction in progress on the lien date.

(C) Declines in the value of the mineral property shall be recognized when the market value of the appraisal unit, (i.e., land, improvements including fixtures, and proved reserves), is less than the current adjusted base year value of the same unit.

(f) TAXABLE VALUE OF THE RIGHT TO PRODUCE.

Unless the value of the right to produce was established on March 1, 1975 or when such right changed ownership, it shall be established as of the date that production of proved reserves commences and the value shall be placed on the roll as provided by law. When the value of the right to produce proved reserves is enrolled, the roll value of the exploration rights for the same proved reserves shall be reduced to zero.

History: Adopted June 29, 1995, effective November 5, 1995.
Amended and effective June 6, 2001. Deleted reference to repealed rule in subsection (e)(4)(B)(1).

Rule 901. PROPERTY STATEMENT.

References: Section 826, Revenue and Taxation Code.
Section 15620, Government Code.

The property statement pertaining to state-assessed property provided for in section 826 of the Revenue and Taxation Code shall be filed with the board between the lien date and 5 p.m. on March 1; provided that, on a showing of good cause and pursuant to a request made prior to March 1, the due date may be extended by the board for a period not exceeding 30 days.

History: Adopted October 8, 1968, effective November 9, 1968.
Amended December 19, 1997, effective January 18, 1998.

Rule 901.5. BOARD SCHEDULE.

Reference: Sections 731, 732, 741, 742, 743, 744, 747, 748, 749, 11338, 11339, 11353, Revenue and Taxation Code.

No later than November 30 each year the Executive Director shall provide to the Board a proposed schedule of dates that will govern the actions to be taken pursuant to sections 902 through 905 for the following calendar year. On Board approval, but no later than January 30 next following, the Executive Director shall inform all state assessees of the schedule adopted by the Board.

Rule 901.5. (Contd.)

History: Adopted February 8, 1979, effective March 25, 1979.
Amended July 13, 1988, effective July 13, 1988.

Rule 902. UNITARY PROPERTY VALUE INDICATORS AND STAFF DISCUSSIONS.

Reference: Sections 721, 722, 723, 724, 725, Revenue and Taxation Code.

Each year the Valuation Division shall make capitalization rate studies and develop value indicators applicable to the unitary property of each state assessee. A copy of the appropriate capitalization rate study and a summary of the calculations of the value indicators shall be provided by the Chief, Valuation Division, to the affected assessee on request. The assessee shall be informed that the staff will be available to discuss the data supplied.

History: Adopted January 7, 1976, effective February 8, 1976.

Rule 903. DISCUSSION WITH BOARD OF UNITARY PROPERTY VALUE INDICATORS.

Reference: Sections 721, 722, 723, 724, 725, Revenue and Taxation Code.

State assessees will, at the discretion of the Board, be afforded an opportunity to discuss the value of their unitary property at a public meeting. The discussion may relate to any information bearing on the value of the property as well as the staff-calculated value indicators. For the purposes of this discussion, the staff will not be required to provide value recommendations.

History: Adopted January 7, 1976, effective February 8, 1976.

Rule 904. UNITARY AND NONUNITARY PROPERTY VALUE DETERMINATIONS AND PETITIONS FOR REASSESSMENT.

Reference: Sections 721, 731, 732, 746, 749, 756, Revenue and Taxation Code.

(a) As soon as practical, the staff shall transmit unitary-value recommendations to the Board. Following this, but not later than May 31 each year, the Board will make and publicly announce individual value determinations. The Chief of the Valuation Division shall notify the state assessees of the values determined by the Board and the fact that they have 20 days from the date of the mailing of the notice to file their declaration of intent to petition for reassessment. The notice will also inform each assessee that if a declaration of intent is timely filed, the assessee has 30 days from the deadline for filing a declaration of intent to file a petition for reassessment. The notice shall be accompanied by a copy of an appraisal data sheet containing the staff value indicators and value recommendation to the Board.

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(b) As soon as practical on or before the last day of June, the Chief of the Valuation Division shall notify the state assessees of the values of nonunitary property. This notice shall inform the assessees that they each have 20 days from the date of the mailing of their individual notice to file a declaration of intent to petition for reassessment. The notice will also inform each assessee that if a declaration of intent is timely filed, the assessee has 30 days from the deadline for filing a declaration of intent to file a petition for reassessment.

(c) On or before the last day of June the Chief of the Valuation Division shall transmit notices of allocated assessed unitary values to each assessee. This notice will inform each assessee that it has 10 days from the date of the mailing of the notice to petition the Board for reallocation of unitary values and that said petitions will be set for hearing and decisions rendered no later than July 31.

History: Adopted January 7, 1976, effective February 8, 1976.
Amended June 29, 1978, effective August 6, 1978.
Amended July 27, 1982, effective February 10, 1983.
Amended April 30, 1990, effective July 21, 1990.

Rule 905. ASSESSMENT OF ELECTRIC GENERATION FACILITIES. (Effective through December 30, 2002)

Authority: Section 15606(c), Government Code.

Reference: Article XIII, Section 19, California Constitution; Section 721, Revenue and Taxation Code.

An electric generation facility shall be state assessed property for purposes of article XIII, section 19 of the California Constitution if: (1) the facility was constructed pursuant to a certificate of public convenience and necessity issued by the California Public Utilities Commission to the company that presently owns the facility; or, (2) the company owning the facility is a state assessee for reasons other than its ownership of the generation facility or its ownership of pipelines, flumes, canals, ditches, or aqueducts lying within two or more counties.

History: Adopted September 1, 1999, effective November 27, 1999.

Rule 905. ASSESSMENT OF ELECTRIC GENERATION FACILITIES. (Effective December 31, 2002)

Authority: Section 15606(c), Government Code.

Reference: Section 19, Article XIII, California Constitution; Sections 118, 721, and 722.5, Revenue and Taxation Code.

(a) Commencing with the assessment for the lien date for the 2003 assessment year, an electric generation facility shall be state assessed property for purposes of article XIII, section 19 of the California Constitution if: (1) the facility has a generating capacity of 50 megawatts or more; and (2) is owned or used by a company which is an electrical corporation as defined in subdivisions (a) and (b) of section 218 of the Public Utilities Code; or, the facility is owned or used by a company which is a state assessee for reasons other than its ownership of the electric generation facility or its ownership of pipelines, flumes, canals, ditches, or aqueducts lying within two or more counties.

(b) ''Electric generation facility'' does not include a qualifying small power production facility or a qualifying cogeneration facility within the meaning of Sections 201 and 210 of Title II of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. §§ 796(17), (18) and 824a-3) and the regulations adopted for those sections under that act by the Federal Energy Regulatory Commission (18 C.F.R. 292.101–292.602).

(c) For purposes of this section, ''company'' means:

(1) A person as defined in Revenue and Taxation Code section 19;

(2) A separate division or other functional unit of a business enterprise which is created and maintained to operate any electric generation facility, where the business enterprise is engaged in a primary business other than generating, transmitting, distributing or selling electricity to the public.

(d) If an electric generation facility is operated by a separate division or other functional unit of a business enterprise, as described in this rule, the business enterprise must maintain accounting and other records sufficient to distinguish the costs and revenues of the separate division or unit from other divisions and units of the business enterprise.

(e) As adopted on September 1, 1999 and effective November 27, 1999, this rule is applicable to define electric generation facilities subject to state assessment to and including December 30, 2002. As amended on November 28, 2001, and filed with the Secretary of State on May 14, 2002, this rule is applicable to define electric generation facilities subject to state assessment as of December 31, 2002 and thereafter.

History: Adopted September 1, 1999, effective November 27, 1999.
Amended November 28, 2001, effective June 13, 2002.

Rule 1001. ANNUAL REPORT.

Reference: Section 11271, Revenue and Taxation Code.

The report required by Section 11271 of the Revenue and Taxation Code of all persons whose private railroad cars are operated upon the railroads in this State at any time during a calendar year shall be filed on or before the thirtieth day of April of the following year.

History: Originally adopted December 13, 1945 as section 2300, Subchapter 5, Chapter 2, title 18, California Administrative Code; renumbered as above March 27, 1968, effective April 28, 1968.
Amended March 28, 1979, effective March 30, 1979.

Rule 1003. MISSING PRIVATE RAILROAD CAR COUNT DATA.

Reference: Section 11293, Revenue and Taxation Code.

In determining the private railroad car count averages required by statute the Board may substitute for missing border crossing information the average length of stay in the state experienced by private railroad cars of the same class and assessee during the calendar year immediately preceding the year in which the tax is imposed. Border crossing information shall be deemed missing only when it cannot be submitted by the assessee.

History: Adopted March 28, 1979, effective March 30, 1979.

Rule 1020. TIMBER VALUE AREAS.

Reference: Sections 38109, 38204, Revenue and Taxation Code.

The following nine designated areas contain timber having similar growing, harvesting and marketing conditions and shall be used as timber value areas in the preparation and application of immediate harvest values:

Area 1
Del Norte County
Humboldt County
Trinity County south and west of that part of the exterior boundary of the Shasta-Trinity National Forest between Humboldt and Tehama Counties

Area 2
Alameda County
Contra Costa County
Marin County
Mendocino County
Monterey County
San Francisco County

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San Mateo County
Santa Clara County
Santa Cruz County
Sonoma County

Area 3
Siskiyou County west of Interstate Highway No. 5

Area 4
Shasta County west of Interstate Highway No. 5
Trinity County except that portion which is south and west of that part of the exterior boundary of the Shasta-Trinity National Forest between Humboldt and Tehama Counties

Area 5
Colusa County
Glenn County
Lake County
Napa County
Sacramento County
Solano County
Tehama County west of Interstate Highway No. 5
Yolo County

Area 6
Lassen County
Modoc County
Shasta County east of State Highway No. 89
Siskiyou County east of Interstate Highway No. 5

Area 7
Butte County
Nevada County
Placer County
Plumas County
Shasta County between Interstate Highway No. 5 and State Highway No. 89
Sierra County
Sutter County
Tehama County east of Interstate Highway No. 5
Yuba County

Area 8
Amador County
Calaveras County
El Dorado County
Tuolumne County

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Area 9

Alpine County
Fresno County
Imperial County
Inyo County
Kern County
Kings County
Los Angeles County
Madera County
Mariposa County
Merced County
Mono County
Orange County
Riverside County
San Benito County
San Bernardino County
San Diego County
San Joaquin County
San Luis Obispo County
Santa Barbara County
Stanislaus County
Tulare County
Ventura County

History: Adopted November 4, 1976, effective January 1, 1977.
Amended January 31, 1977, effective February 1, 1977.

Rule 1021. TIMBERLAND GRADING RULE.

Reference: Sections 434.1, 38204, Revenue and Taxation Code.

(a) GENERAL. Beginning with the 1977–78 fiscal year, privately owned land and land acquired for state forest purposes which is primarily devoted to and used for growing and harvesting timber and is zoned for a minimum 10-year period as timberland production zone (TPZ) will be valued for property taxation on the basis of its use for growing and harvesting timber, plus the value, if any, attributable to existing, compatible, nonexclusive uses of the land.

(b) SITE QUALITY. Timberland is rated for productivity based upon its ability to produce wood growth on trees. Five general site classes are established wherein Site I denotes areas of highest productivity, Site II and Site III denote areas of intermediate productivity, and Site IV and Site V denote areas of lowest productivity. The five site quality classes are set forth within each of three general forest types: redwood, Douglas fir, and mixed conifers.

Land zoned as timberland production zone (TPZ) shall be graded by the assessor using the following site classification table as a measure of land productivity.

Rule 1021. (Contd.)

TIMBERLAND PRODUCTION ZONE SITE CLASSIFICATION TABLE

Productivity Potential	*Young-Growth Redwood* [1]		*Douglas Fir* [2]		*Ponderosa Pine Jeffrey Pine, Mixed Conifer & True Fir* [3]		
	Site Class	Site Index Feet @ 100 yrs.	Site Class	Site Index Feet @ 100 yrs.	Site Class	Site Index Feet @ 100 yrs.	Site Index Feet @ 300 yrs.
Highest	I	180 or more	I	194 or more	I	114 or more	163 or more
Inter-	II	155–179	II	164–193	II	93–113	138–162
mediate	III	130–154	III	134–163	III	75–92	113–137
	IV	105–129	IV	103–133	IV	60–74	88–112
Lowest	V	Less Than 105	V	Less Than 103	V	Less Than 60	Less Than 88

[1] Lindquist, James L., and Marshall N. Palley. Empirical yield tables for young-growth redwood, Calif. Agr. Exp. Stn. Bull. 796, 47 pp., 1963.

[2] McArdle, Richard E., and Walter H. Meyer. The yield of Douglas fir in the Pacific Northwest. USDA Tech. Bull. 201, 74 pp., Rev. 1961. Adjusted to average height of dominant trees after Forest Research Note No. 44, Pacific Northwest Forest and Range Experiment Station, by Forest Survey, Calif. Forest and Range Exp. Stn., 1948.

[3] Dunning, Duncan. A site classification for the mixed conifer selection forests of the Sierra Nevada. USDA Forest Serv. Calif. Forest and Range Exp. Stn. For. Res. Note 28, 21 pp., 1942.

Young-Growth Redwood. Site index based on average height of dominant trees at breast height age of 100 years. Use in young-growth redwood stands in which more than 20 percent of the stand by basal area is redwood and when sufficient dominant redwood trees are available to determine site index.

Douglas Fir. Site index based on average height of dominant trees at age 100 years. Use in young-growth redwood stands in which 20 percent or less of the stand by basal area is redwood or when sufficient dominant redwood trees are not available to determine site index. Use also in old-growth redwood stands. In such cases, measure Douglas fir trees for determining site index. Also use for Sitka spruce, grand fir, hemlock, bishop's pine, and Monterey pine stands.

Ponderosa Pine, Jeffrey Pine, Mixed Conifer, and True Fir. Site index based on average height of dominant trees at age 100 and 300 years. Use also for lodgepole pine stands. For old-growth stands, use height of dominants at age 300 years.

(c) OPERABILITY. Timberland shall be rated for operability based upon such factors as accessibility, topography, and legislative or administrative restraints. On or before December 31, 1979, two classes of operability shall be used by the assessor and designated as operable or inoperable. Areas of inoperable land must be identified by the assessor. For the purpose of land site classification, inoperable means that any of the following circumstances are applicable:

Rule 1021. (Contd.)

(1) Extreme physical barriers prevent access.

(2) Legal or administrative restraints prevent access or harvest.

(3) Rocky ground, steep slopes, or sterile soil prevent growing or harvesting merchantable timber.

History: Adopted January 6, 1977, effective March 3, 1977.
Amended June 21, 1983, effective October 7, 1983.

Rule 1022. STANDARD UNIT OF MEASURE.

Reference: Sections 38109, 38204, Revenue and Taxation Code.

(a) GENERAL. In determining quantities of timber for purposes of the timber yield tax the Scribner Decimal C Log Rule based on a maximum scaling length of 20 feet (Scribner Decimal C (Short Log) Scale) shall be used as the standard board foot log rule for timber that is measurable by the net board foot method. This standard board foot log rule for such timber is to be used in all instances, except that in those rare instances when circumstances preclude the use of this standard board foot log rule for such timber, conversion factors as specified herein shall be employed for reporting harvested timber originally scaled using other than the standard board foot log rule.

Timber that is not normally scaled by the net board foot method shall be measured using the unit commonly employed by those dealing with the wood products to which the timber is to be converted, e.g.

INTENDED WOOD PRODUCT	MEASUREMENT UNIT
Fuel Wood	Cord
Christmas trees, poles and pilings	Lineal foot
Chip wood	Gross scale of useable wood

(b) DEFINITIONS. When used in this section the terms board foot and board foot log rule shall have the following meaning:

(1) Board foot—a solid piece of wood, 12 inches wide, 12 inches long and 1 inch thick.

(2) Board foot log rule—a method for estimating the volume in board feet of a log with a known diameter and length.

(c) CONVERSION FACTORS. When board foot volumes are not scaled using the standard board foot log rule the following factors shall be used to convert the scale employed to the standard scale.

(1) The Humboldt Log Scale shall be converted to gross Scribner Decimal C (Short Log) Scale by the application of a multiplier factor of 1.45. The actual defect in board feet as determined by the difference between that scale and the mill tally

Rule 1022. (Contd.)

records shall be deducted from the gross Scribner scale. Until January 1, 1978, the Humboldt Log Scale when applied to old growth redwood shall be converted to net Scribner Decimal C (Short Log) Scale by the application of a multiplier factor of 1.15.

(2) The Spaulding Log Scale (Short Log) shall be converted to Scribner Decimal C (Short Log) Scale by the application of a multiplier factor of 1.02.

(3) When logs harvested in California are scaled outside California, and only when circumstances preclude the use of the Scribner Decimal C Log Rule based on a maximum scaling length of 20 feet (Scribner Decimal C (Short Log) Scale), the Scribner Decimal C Log Rule volumes attributable to long log scaling shall be converted to Scribner Decimal C (Short Log) Scale by the application of a multiplier factor of 1.20.

History: Adopted November 4, 1976, effective January 1, 1977.
Amended August 19, 1980, effective December 31, 1980.

Rule 1023. IMMEDIATE HARVEST VALUE.

Reference: Sections 38109, 38204, Revenue and Taxation Code.

(a) DEFINITIONS. Immediate harvest value is the amount that each species or subclassification of timber would sell for on the stump at a voluntary sale made in the ordinary course of business for purposes of immediate harvest. Such value shall be expressed to the nearest dollar per standard unit of measure applicable pursuant to Rule No. 1022, except that the immediate harvest value of Christmas trees shall be the sale price of such trees in quantities of 100 or more in the market area nearest to the place where the trees are cut and adjusted to reflect the value of the trees immediately prior to severance.

Timber value areas are those areas containing timber having similar growing, harvesting, and marketing conditions.

Harvest value is the immediate harvest value in a timber value area as of the first day of the period specified by the applicable harvest value schedule.

‘‘Timber at similar locations’’ means timber in an area of comparable elevation and topography, and subject to comparable logging conditions and accessibility to the point of conversion.

(b) HARVEST VALUE SCHEDULES. The timber owner shall determine the taxable value of the timber harvested for each harvest operation by the use of the Board harvest value schedule applicable to the tax reporting period.

The harvest value schedules adopted by the Board provide estimates of harvest values by considering gross proceeds from sales on the stump of similar timber of like quality and character at similar locations, or gross proceeds from sales of logs,

Rule 1023. (Contd.)

or of finished products, adjusted to reflect only the portion of such proceeds attributable to value on the stump immediately prior to harvest, or a combination of both. Allowance is made for differences in age, size, quality, cost of removal, accessibility to point of conversion, market conditions, and other relevant factors.

Each value schedule provides harvest values for a timber value area taking into account species and average tree or log size. Appropriate allowances for costs of removal have been calculated by consideration of the most common logging systems used within the area, the actual methods of harvesting the timber, the volume per acre, the total volume removed per harvest operation, the typical haul range distances to a conversion point and any excessive required costs of removal.

(c) DAMAGED TIMBER. The Board, either on its own motion after consultation with the Timber Advisory Committee or in response to an application from a timber owner may specify a modification of immediate harvest value to reflect material changes in timber values that result from fire, blowdown, ice storm, flood, disease, insect damage, or other cause, for any area in which damaged timber is located. Whenever a timber owner uses such modified immediate harvest values for reporting damaged timber, he shall maintain appropriate accounting records as specified by the Board.

History: Adopted January 6, 1977, effective March 3, 1977.
Amended and effective June 24, 1997.

Rule 1024. EXEMPT TIMBER.

Reference: Section 38116, Revenue and Taxation Code.

(a) GENERAL. There is exempt from timber yield tax timber whose immediate harvest value is so low that, if not exempt, the tax on the timber would amount to less than the cost of administering and collecting the tax.

(b) EXEMPT HARVEST. Timber, removed from a timber harvest operation whose immediate harvest value does not exceed $3,000 within a quarter, is exempt from timber yield tax pursuant to the authority granted by section 38116 of the Revenue and Taxation Code. For the purpose of this rule, immediate harvest value shall be that value described in sections 38109 and 38204 of the Revenue and Taxation Code, and in Rule 1023. The Board harvest value schedule applicable to the tax reporting period at the time of harvest shall define the timber harvest operation, and shall be the basis for determining the immediate harvest value thereof.

(c) Nothing in this rule shall authorize the exemption of timber whose immediate harvest value exceeds $3,000.

History: Adopted December 9, 1998, effective April 8, 1999.

Rule 1026. TIMBER OWNER.

Reference: Sections 38104, 38108, 38115, Revenue and Taxation Code.

Exempt person or agency. The timber yield tax is imposed not only on every timber owner who harvests his or her timber or causes it to be harvested but also on every timber owner of felled or downed timber who acquires title to such felled or downed timber in the state from a person or agency exempt from property taxation under the Constitution or laws of the United States or under the Constitution or laws of the State of California. In some instances, such timber owners may acquire title to felled or downed timber directly from the exempt person or agency. In other instances, however, such timber owners may acquire title to felled or downed timber from an exempt person or agency which itself has previously acquired title to the timber from another exempt person or agency.

Where timber owners of felled or downed timber have acquired title to the timber in the state from an exempt person or agency, ''first person who acquires either the legal title or beneficial title to timber after it has been felled'' means the first non-exempt person who acquires such title from an exempt person or agency, and such a person is a timber owner liable for applicable timber yield tax(e.g., where the person initially felling timber is exempt from property taxation and the person acquiring the felled timber is also exempt from property taxation, the first non-exempt person who thereafter acquires title to the felled timber is liable for applicable timber yield tax).

As used in Sections 38104 and 38115 of the Revenue and Taxation Code, ''timber owner'' does not include, however, any person who harvests timber, causes it to be harvested, or acquires title to felled or downed timber derived from Indian lands held in trust by the United States for an Indian Tribe or Band or for any individual Indian member thereof; and no timber yield tax shall be imposed with respect to that timber upon any person who thereafter acquires title to the timber.

History: Adopted August 19, 1980, effective December 31, 1980.
Amended August 5, 1983, Section 38301 repealed effective January 1, 1983.
Amended April 22, 1992, effective September 12, 1992.

Rule 1027. U. S. FOREST SERVICE TIMBER VOLUMES.

Reference: Sections 38108, 38115, Revenue and Taxation Code.

(a) GENERAL. U. S. Forest Service timber sale contract holders shall report timber volumes harvested as hereinafter provided.

(b) SCALED VOLUME BILLINGS. The Timber Sale Statement of Account (TSSA) is the basis for most U. S. Forest Service billing statements. Timber volumes shall be reported for the quarters reflected by the Timber Sale Statements of Account (e.g., April, May, and June, 1980 TSSA volumes shall be reported for the second quarter of 1980).

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(c) LUMP-SUM BILLINGS. Timber volumes actually harvested, regardless of the volume purchased from, and billed for by the U. S. Forest Service, shall be reported for the quarters in which scaled. Timber sale contract holders must get and retain scaling data for such volumes.

(d) OTHER METHODS OF REPORTING. Timber harvested pursuant to U. S. Forest Service timber sale contracts may be reported on a basis other than (b) or (c), above, only if a written description of the reporting basis to be used is submitted to and is authorized by the Timber Tax Division prior to the due date of the return and prior to reporting.

History: Adopted August 19, 1980, effective November 16, 1980.
Amended August 5, 1983, Section 38301 repealed effective January 1, 1983.

Rule 1031. RECORDS.

Reference: Sections 38703, 38704, Revenue and Taxation Code.

(a) GENERAL. Every timber owner, timberland owner, timber operator, and person harvesting timber for forest products purposes, shall keep adequate and complete records showing:

(1) Contractual or financial agreements relative to the ownership and harvest of timber for forest products.

(2) Harvest locations for logged timber.

(3) The basis for adjustments to harvest values.

These records shall include the books of account ordinarily maintained by the average prudent businessman engaged in the activity, together with all bills, receipts, invoices, scaling records, tapes, or other documents of original entry supporting the entries in the books of account as well as all schedules or working papers used in connection with the preparation of tax returns.

(b) MICROFILM RECORDS. Microfilm reproductions of general books of account, such as cash books, journals, voucher registers, ledgers, etc., are acceptable in lieu of original records, and microfilm reproductions of supporting data such as sales invoices, purchase invoices, credit memoranda, scale tickets, trip tickets, etc., are acceptable providing the following conditions are met:

(1) Appropriate facilities are provided for the preservation of the films for periods required under subparagraph (d).

(2) Microfilm rolls are indexed, cross referenced, labeled to show beginning and ending numbers or beginning and ending alphabetical listing of documents included, and are systematically filed.

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(3) The taxpayer agrees to provide transcriptions of any information contained on microfilm which may be required for purposes of verification of tax liability.

(4) Proper facilities are provided for the ready inspection and location of the particular records, including modern projectors for viewing and copying the records.

A posting reference must be on each invoice. Credit memoranda must carry a reference to the document evidencing the original transaction. Documents necessary to support a claimed adjustment for immediate harvest value, such as scaling tickets and trip records, must be maintained in an order by which they can be readily related to the harvesting for which the value adjustment is sought.

(c) RECORDS PREPARED BY AUTOMATED DATA PROCESSING SYSTEMS. An ADP tax accounting system shall include a method of producing visible and legible records that will provide the necessary information for verification of the taxpayer's tax liability.

(1) RECORDED OR RECONSTRUCTIBLE DATA. ADP shall make possible the tracing of any transaction back to the original source or forward to a final total. If detail printouts are not made of transactions at the time they are processed, then the system must have the ability to reconstruct these transactions.

(2) GENERAL AND SUBSIDIARY BOOKS OF ACCOUNT. A general ledger, with source references, shall be maintained to coincide with financial reports for tax reporting periods. Subsidiary ledgers used to support the general ledger accounts shall also be in printout form, or the system be capable of producing a printout for any appropriate calendar or fiscal period.

(3) SUPPORTING DOCUMENTS AND AUDIT TRAIL. Records shall be kept in such a manner as to provide an audit trail that allows for ready identification of details underlying the summary accounting data. The system should be so designed that supporting documents, such as sales invoices, purchase invoices, scaling tickets, credit memoranda, etc., are readily available.

(4) PROGRAM DOCUMENTATION. A description of the ADP portion of the accounting system shall be available. The statements and illustrations of the scope of operations should be sufficiently detailed to indicate, (a) the application being performed, (b) the procedures employed in each application (supported by flow charts, block diagrams or other satisfactory description of the input or output procedures), and (c) the controls used to insure accurate and reliable processing. Important changes, together with their effective dates, should be noted in order to preserve an accurate chronological record.

(d) RECORDS RETENTION. All records pertaining to transactions subject to the timber yield tax must be preserved for a period of not less than four years unless the State Board of Equalization authorizes in writing their destruction within a lesser period.

(e) EXAMINATION OF RECORDS. All of the above-described records shall be made available for examination on request by the Board or its authorized representatives.

Rule 1031. (Contd.)

(f) FAILURE TO MAINTAIN RECORDS. Failure to maintain and keep complete and accurate records shall be considered evidence of negligence or intent to evade the tax and may result in penalties or other appropriate administrative action.

History: Adopted January 6, 1977, effective March 3, 1977.

Rule 1045. ADMINISTRATION OF THE ANNUAL RACEHORSE TAX.

Reference: Article XIII, Section 1, Article XIII A, Section 1, California Constitution. Sections 93, 135, 469, 5701, 5721, 5781, Revenue and Taxation Code.

The annual tax imposed by Section 5721 of the Revenue and Taxation Code on the privilege of breeding, training, caring for, or racing racehorses in this state shall be administered as provided herein.

(a) ASSESSOR'S RESPONSIBILITIES.

(1) SUBMISSION OF FORMS FOR BOARD APPROVAL. Annually on or before October 15 the assessor shall notify the board, on a form provided by the board, (1) of his intent to reproduce (a) the ANNUAL RACEHORSE TAX RETURN form and (b) the ANNUAL REPORT OF BOARDED RACEHORSES form by a photocopy process from the current prototype forms and instructions distributed by the board for use for the succeeding reporting period, or (2) of the forms and/or instructions which he will produce by means other than a photocopy of the prototype for use for that period, or (3) that he will have no need for the forms. When filing a notification that he will use a form and/or instructions which he will produce by means other than a photocopy of the prototype, he shall submit to the board in duplicate for approval a draft copy of each such form and/or instructions. The copies shall be submitted together with the board-prescribed property statement forms required to be submitted by section 171 of this title. The provisions of section 171 relative to arrangement and variation of content of such property statement forms shall also be applicable to these forms.

(2) DISTRIBUTION OF FORMS AND RETENTION OF REPORTS. Copies of the forms prescribed by the board for reporting the tax due and for reporting the names of persons whose racehorses are boarded with others shall be furnished by the assessor no later than December 15 prior to the calendar year in which the tax is due by mailing them to persons believed to be required to use them and by making them available at the assessor's office to any person requesting them.

The assessor shall maintain a record of those persons believed to be liable for the annual racehorse tax to whom he has furnished copies of the forms. A copy of the record shall be delivered to the tax collector within 10 days of the date when copies of the forms are furnished so that the tax collector can be cognizant of the taxpayers who can reasonably be expected to file returns.

The assessor shall retain his copy of all tax returns filed by taxpayers for a period of five years from the date the returns become due. They shall be arranged or identified so as to indicate whether or not an audit is required under subsection (3) of this rule.

Rule 1045. (Contd.)

(3) AUDITS. The assessor shall audit the tax records relative to his county of any racehorse owner who, according to the assessor's records, had a gross tax liability (before addition of any penalties) that exceeds $2,000 for each of four consecutive calendar years. This audit shall be performed within five years of the date on which the annual racehorse tax first became due and shall include, but need not be limited to, a comparison of the annual racehorse tax return with records maintained by the taxpayer. The assessor, when performing an audit pursuant to this section of a taxpayer's records of racehorses taxable at a home ranch or other business location, shall also audit records of the same taxpayer pertaining to (1) personal property taxes on property having tax situs at the same location and (2) livestock taxable at the same location.

When an assessor schedules an audit of the records of any racehorse owner, whether as part of an audit required by section 192 of this title or independently thereof, he shall advise the assessor of any other county in which racehorses of this taxpayer were taxable, as shown in the annual racehorse tax returns or in any other source, of the date on which the audit will be performed. Upon completion of the audit he shall make that portion of the audit findings relevant to the annual racehorse tax available to any such assessor. On discovery that horses escaped taxation, the assessor shall determine whether they were subject to the annual racehorse tax, were subject to the property tax, or were exempt and, if they were taxable, shall either provide the tax collector with copies of the audit workpapers so that a determination of additional racehorse tax due can be calculated or enroll an ad valorem assessment of escaped personal property.

Nothing herein shall be construed to prohibit the assessor from auditing the records of taxpayers for which audits are not required by this rule.

(b) TAX COLLECTOR. The tax collector shall accept returns and payments, verify the mathematical accuracy of the tax returns and issue receipts upon request and for all cash payments. He shall forward to the assessor and to the auditor their respective copies of each return within 15 days of receipt.

The tax collector shall issue bills when his review of the tax return indicates additional tax due or when he has determined that additional tax is due under (a) (3) above. He shall also take such action as is appropriate to insure collection of taxes due his county. He shall inform the auditor and the tax collector of any other county of additional tax found to be due that county.

(c) AUDITOR. The auditor will receive his copy of all tax returns filed in his county from the tax collector. He shall within 15 days of receipt transmit, in duplicate, to the auditors of other counties copies of returns which show tax liabilities in their respective counties. He will receive tax returns from the auditors of other counties and on receipt thereof shall forward copies of each return to both the assessor and the tax collector.

The auditor shall use the information on the forms to allocate taxes as prescribed in section 5790 of the Revenue and Taxation Code. Amounts due to other counties may be forwarded periodically rather than as received, but must under any method chosen

Rule 1045. (Contd.)

be accompanied by information which will enable the auditor of the receiving county to make a proper allocation in his county.

(d) CLAIMS FOR REFUND. Overpayments of this tax are subject to refund pursuant to the provisions of Chapter 1 of Part 3 of Division 3.6 of Title 1 (commencing with §900) and Chapter 4 of Division 3 of Title 3 (commencing with §29700) of the Government Code.

History: Adopted October 26, 1972, effective December 1, 1972.
Amended October 18, 1973, effective November 25, 1973.
Amended December 7, 1982, effective March 4, 1983.

Rule 1046. HORSES SUBJECT TO AD VALOREM TAXATION.

Reference: Part 12, Division 1, Revenue and Taxation Code, Sections 5703, 5710, 5711, Revenue and Taxation Code, and Sections 19409, 19413.5, 19416, 19416.5, 19416.7, Business and Professions Code.

A horse over three years of age, or over four years of age in the case of an Arabian horse, that, in the two previous calendar years, has neither participated in a horserace contest on which parimutuel wagering is permitted nor been used for breeding purposes in order to produce a racehorse eligible to participate in a horserace contest on which parimutuel wagering is permitted is not a racehorse within the meaning of Part 12 of Division 1 of the Revenue and Taxation Code. Any such horse is subject to ad valorem taxation unless otherwise exempt.

(a) A horse used for breeding purposes means a registered male animal that has serviced three or more registered females for the purpose of producing a racehorse during the two previous calendar years or a registered female animal that has been bred to a registered male for the purpose of producing a racehorse during the two previous calendar years.

(b) In order to qualify as a racehorse a horse must be registered or eligible to be registered with an agency recognized by the California Horse Racing Board. Agencies currently recognized are as follows:

Agency	*Breed*
The Jockey Club	Thoroughbred
The American Quarter Horse Association	Quarter Horse
The United States Trotting Association	Standardbred
The Appaloosa Horse Club	Appaloosa Horse
The Arabian Horse Registry of America	Arabian Horse

History: Adopted October 26, 1972, effective December 1, 1972.
Amended May 1, 1974, effective June 1, 1974.
Amended June 16, 1987, effective September 26, 1987.

Rule 1047. PROPER CLASSIFICATION OF RACEHORSES.

Reference: Part 12, Division 1, Revenue and Taxation Code.

(a) If during the previous calendar year a racehorse subject to the tax imposed by Section 5721 of the Revenue and Taxation Code falls into categories both as an animal used for breeding and as an active racehorse, the use producing the higher tax is controlling.

(b) If during the previous calendar year a stallion is used by the owner exclusively for purposes of servicing the owner's mares, the highest stud fee for such year shall be determined by reference to the highest stud fee charged by owners of comparable stallions on the open market.

History: Adopted October 26, 1972, effective December 1, 1972.

Rule 1051. EXTENSION OF TIME FOR ACTS REQUIRED BY REGULATION.

Reference: Section 155, Revenue and Taxation Code.

When any regulation of the board fixes the time for the performance of any act by the assessor, board of equalization, assessment appeals board or other board, officer, or employee of a county or local governmental entity, the time may be extended by the board or its secretary in the same manner and for the same periods as provided by Section 155 of the Revenue and Taxation Code for extension of a time fixed by statute.

History: Adopted January 3, 1967, effective January 4, 1967.
Amended July 27, 1982, effective December 30, 1982.

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